

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 07-cv-02603-REB-KLM

NORBERTO PEREZ AROCHO,

Plaintiff,

v.

S. NAFZINGER, Clinical Director,
RON WILEY, Warden of U.S.P. Penitentiary - ADX, and
HARLEY LAPPIN, Federal Bureau of Prison - Director,

Defendant.

ORDER DENYING STAY AND SEALING EXHIBIT

ORDER ENTERED BY MAGISTRATE JUDGE KRISTEN L. MIX

This matter is before the Court on **Defendants' Motion to Temporarily Stay of Proceedings Pending the Court's Ruling on the Magistrate Judge's Recommendation (Doc. 131) to Dismiss** [Docket No. 137; Filed January 16, 2008] ("Motion to Stay"). This is Defendants's second request for a stay of the case pending resolution of the Motion to Dismiss [Docket No. 65]. Defendants inform the Court that Plaintiff, *pro se*, opposes the Motion to Stay. However, in pleadings filed by Plaintiff involving an unrelated and unrefereed motion, Plaintiff states his intention not to take further discovery and requests that the Court enter judgment in his favor on the present pleadings [Docket No 129].

IT IS HEREBY **ORDERED** that the Motion to Stay [#137] is **DENIED** for the reasons set forth in my Order of December 1, 2008 [Docket No. 113] denying a stay of the case while the Motion to Dismiss is pending. While I have since issued a Recommendation that the Motion to Dismiss be granted [Docket No. 131], my Recommendation is not binding on

the District Judge assigned to this matter. Therefore, the Motion to Dismiss remains pending and the status of the case is as it was on December 1, 2008. I note further that assuming Plaintiff has decided to forego further discovery, my ruling on the Motion to Stay should not prejudice Defendants.

This matter is also before the Court on Defendants' **Unopposed Motion to File Medical Records Under Seal** [Docket No. 133; Filed January 16, 2009] ("Motion to Seal"). In accordance with D.C. Colo. L. Civ. R. 7.2(B), the Motion to Seal was posted to the public to allow for any objections to the sealing of the documents. There being no objections filed,

IT IS HEREBY **ORDERED** that the Motion to Seal [#133] is **GRANTED**.

IT IS FURTHER **ORDERED** that the Clerk of the Court shall maintain Plaintiff's medical records purporting to be attachments to the Declaration of Theresa Montoya [Docket Nos. 134-136] UNDER SEAL.

Dated: January 26, 2009

BY THE COURT:

s/ Kristen L. Mix
United States Magistrate Judge
Kristen L. Mix