

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 08-cv-01064-REB-MEH

CHARLES LOWELL KENTZ,

Plaintiff,

v.

LIEUTENANT BORJA, and
LIEUTENANT MOLINA, Special Investigation Supervisors of FCI–Florence, Colorado, each sued personally and in their individual capacities,

Defendants.

NOTICE OF CONVERSION TO SUMMARY JUDGMENT

Defendants have filed a Motion to Dismiss pursuant to Fed. R. Civ. P. 12(b)(6) (“Motion”), alleging that Plaintiff fails to state a claim against the Defendant upon which relief may be granted. [[docket #29](#)]. Plaintiff timely filed a response with amendments and Defendants a reply.

Because Defendant wishes to support its Rule 12(b)(6) Motion to Dismiss with documents outside the pleadings, it is proper to inform the parties that the Court will convert the Motion to Dismiss into a Motion for Summary Judgment pursuant to Fed. R. Civ. P. 56 and shall conduct its analysis accordingly. *See David v. City & County of Denver*, 101 F.3d 1344, 1352 (10th Cir. 1996). Consequently, either party may submit any additional briefing on the Motion, may submit additional materials, and may respond to the materials already submitted with any “material that is pertinent to the [Rule 56] motion.” Fed. R. Civ. P. 12(d).

Therefore, it is ORDERED that any additional briefing by either party must be submitted on or before **March 6, 2009**.

Dated at Denver, Colorado, this 20th day of February, 2009.

BY THE COURT:

s/ Michael E. Hegarty
Michael E. Hegarty
United States Magistrate Judge