

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge Philip A. Brimmer

Civil Action No. 08-cv-01990-PAB-KMT

SHANE FLOYD ARGETSINGER,

Plaintiff,

v.

BILL RITTER, JR.,
ARISTEDES W. ZAVARAS,
WARDEN JIM ABBOTT,
MAJOR LINDA MAIFIELD,
CAPTAIN HOLDITCH, and
LIEUTENANT HEIDENTHAL,

Defendants.

ORDER

This matter is before the Court on Notice of Intent to Appeal by Plaintiff [Docket No. 85], wherein plaintiff complains that judgment entered on September 30, 2009 despite the fact that the Court's Order of September 29, 2009 [Docket No. 79] did not dismiss the entire case.

The Court's September 29, 2009 Order accepted the Recommendation of United States Magistrate Judge [Docket No. 57] to grant defendants' Motion to Dismiss Pursuant to Fed. R. Civ. P. 12(b)(6) [Docket No. 43]. The effect of the Order was to dismiss all of plaintiff's claims against defendants Ritter and Zavaras. The Order also dismissed plaintiff's claims for compensatory relief against defendants Holditch, Heidenthal, Abbott, and Maifield in their individual capacities and dismissed plaintiff's damages claims against such defendants in their official capacities. However, as

plaintiff points out in his Notice of Intent to Appeal by Plaintiff, the September 29, 2009 Order did not dismiss plaintiff's claims for punitive damages or injunctive relief against defendants Holditch, Heidenthal, Abbott, and Maifield. Therefore, judgment incorrectly entered on September 30, 2009. It is

ORDERED that the Clerk of the Court shall vacate the Judgment entered on September 30, 2009 and re-open this case. It is further

ORDERED that the Clerk of the Court is directed to serve notice of this order to the Tenth Circuit Court of Appeals by means of electronic notice directed to

ca10_team2@ca10.uscourts.gov.

DATED October 21, 2009.

BY THE COURT:

s/Philip A. Brimmer
PHILIP A. BRIMMER
United States District Judge