

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 08-cv-02612-WYD-MEH

JAMES K. CONKLETON,

Plaintiff,

v.

ARISTEDES W. ZAVARAS, in his official capacity as Executive Director of the Colorado Department of Corrections (CDOC),

JOE STOMMEL, in his official capacity as the Program Administrator of the Sex Offender Treatment and Monitoring Program (SOTMP) for the CDOC,

JOHN P. MCGILL, in his individual and official capacities as Treatment Provider for the SOTMP,

BONNIE CANTU, in her individual and official capacities as Treatment Provider for the SOTMP,

JAMES LANDER, in his individual and official capacities as Treatment Provider for the SOTMP,

ED MURO, in his individual and official capacities as a Correctional Officer I for the CDOC,

RICHARD DEGROOT, in his individual and official capacities as a Case Manager for the CDOC,

CATHIE HOLST, in her official capacity as Manager for the Office of Correctional Legal Services for the CDOC,

THOMAS MISEL, in his individual and official capacities as Case Manager Supervisor, CDOC,

AL ESTEP, in his official capacity as the Warden of the CDOC's Fremont Correctional Facility, and

RICHARD LIND, in his individual and official capacities as a Correctional Officer V,

Defendants.

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**MINUTE ORDER**

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**Entered by Michael E. Hegarty, United States Magistrate Judge, on July 12, 2010.**

Plaintiff's Motion for Non-Appearance Subpoena Duces Tecums [sic] [filed June 28, 2010; docket #145] is **granted in part and denied in part**. At the April 10, 2010 status conference, Plaintiff stated, without objection from Defendants, that he had already propounded eleven requests for production of documents in this case. Based upon that statement, the Court allowed Plaintiff an additional five requests for production. There was no indication from the parties or the Court that the additional requests were to pertain only to Claims 3 and 6.

However, the Defendants have advised the Court that no documents exist with respect to Plaintiff's Requests 9, 10, and 11.<sup>1</sup> The Court cannot justify issuing subpoenas *duces tecum* for documents that do not exist. Thus, to the extent that they have not already done so, the Defendants are directed to submit to the Plaintiff, **on or before July 19, 2010**, a verified response to Plaintiff's additional document requests affirming that no such documents exist.

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<sup>1</sup>Defendants enumerate the Request numbers by reference to Plaintiff's paragraph numbers in the motion.