

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

Civil Action No. 09-cv-00359-PAB-KLM

BONNIE GARCIA,
individually and as personal representative of the estate of Joshua Garcia,

Plaintiff,

v.

COLORADO MENTAL HEALTH INSTITUTE AT PUEBLO,
THE STATE OF COLORADO, and
JAMES SEWELL, M.D., individually,

Defendants.

ORDER DISMISSING CERTAIN PARTIES

This case is before the Court on defendants Colorado Mental Health Institute at Pueblo and the State of Colorado's motion to dismiss [Docket No. 64] plaintiff's second amended complaint [Docket No. 55]. Defendants' motion raises a defense under Federal Rule of Civil Procedure 12(b)(1), arguing that this Court lacks subject-matter jurisdiction due to their sovereign immunity under the Eleventh Amendment of the United States Constitution. Plaintiff confesses the motion [Docket No. 71]. Therefore, it is

ORDERED that defendants Colorado Mental Health Institute at Pueblo and the State of Colorado's motion to dismiss [Docket No. 64] is GRANTED. Plaintiff's claims against these two parties are dismissed without prejudice. It is further

ORDERED that the caption in this case shall be amended as follows:

BONNIE GARCIA, individually and as personal representative of the estate of
Joshua Garcia,

Plaintiff,

v.

JAMES SEWELL, M.D., individually,

Defendant.

DATED November 24, 2009.

BY THE COURT:

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