

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 09-cv-00983-WYD-KLM

WELLMAN E. GIBSON,

Plaintiff,

v.

ANNA MARIE CAMPBELL,
C. HOLST, AIC,
SHIRLEY STEINBECK,
MARSHALL GRIFFITH,
LT. STEINBECK, and
DOCTOR ASSEN,

Defendants.

AMENDED ORDER

ENTERED BY MAGISTRATE JUDGE KRISTEN L. MIX

This matter is before the Court on Plaintiff's **Motion for Judgment on the Pleadings** [Docket No. 118; Filed August 19, 2010] (the "Motion"). The Motion does not contain a certification that it was served upon Defendants as required by D.C.COLO.LCivR 5.1G. (requiring certificate of service that the motion was served upon opposing party). Regardless that Plaintiff is proceeding *pro se*, he is required to comply with the rules of this Court. *Green v. Dorell*, 969 F.2d 915, 917 (10th Cir. 1992). The Motion is subject to denial on this basis alone. Accordingly,

IT IS HEREBY **ORDERED** that the Motion is **DENIED without prejudice**. All future motions filed by Plaintiff must comply with the Federal and Local Rules of Civil Procedure. In addition, the Court notes that a Motion for Judgment on the Pleadings, while allowed by

the Federal Rules, is inappropriate here. As I recognized in my Recommendation on Defendants' Motion to Dismiss, additional information and evidence beyond what is contained in the Complaint must be further developed. See *Recommendation* [#115] at 5 n.3, 9, 17-18. Under these circumstances, judgment on the present pleadings cannot enter and the case must proceed through discovery to the dispositive motions phase or trial. See generally *Park Univ. Enters., Inc. v. Am. Cas. Co.*, 442 F.3d 1239, 1244 (10th Cir. 2006) ("Judgment on the pleadings should not be granted 'unless the moving party clearly established that no material issue of fact remains to be resolved and the party is entitled to judgment as a matter of law.'" (citation omitted)). Here, the deadline to file a motion for summary judgment pursuant to Fed. R. Civ. P. 56 is February 15, 2011.

Dated: August 20, 2010

BY THE COURT:

s/ Kristen L. Mix
U.S. Magistrate Judge