

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

Civil Action No. 09-cv-01676-PAB-KLM

FRANK VIGIL, JR.,

Plaintiff,

v.

COLORADO DEPARTMENT OF CORRECTIONS (C.D.O.C.),

Defendant.

ORDER

This matter comes before the Court on the Motion to Vacate and Reset Trial Setting [Docket No. 109] filed by defendant Colorado Department of Corrections. Defendant seeks a continuance of the trial because its attorney is scheduled to begin a trial in another case on the same date. As a result, defendant states that, “[i]n the event that both cases proceed to trial on August 20, 2012, it will be physically impossible for undersigned counsel to appear before the Court in both matters.” Docket No. 109 at 1. However, since both matters are set before this Court and because the Court does not intend to transfer one of the cases, that contingency will not happen.

Defendant also states that “preparing both cases simultaneously for trial will be extremely difficult given the fact the undersigned counsel manages a heavy case-load. . . .” *Id.* at 2. It is not clear why counsel for defendant agreed to a trial date on August 20, 2012 given that she presumably was aware of the conflict. The Court is unwilling to postpone this trial after both sides agreed to the August 20, 2012 trial date

at the last hearing in this matter on May 8, 2012. This case was filed in 2009 and therefore needs to proceed to trial sooner rather than later. Despite the challenge of preparing for two trials at the same time, it is not unusual for trial attorneys to have to do so. Moreover, this matter is only set for a three-day court trial. As a result, the Court does not find good cause for a continuance of the trial in this matter. Wherefore, it is

ORDERED that the Motion to Vacate and Reset Trial Setting [Docket No. 109] is denied.

DATED May 14, 2012.

BY THE COURT:

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