

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 09-cv-01709-WYD-KLM

SHANE MCMILLAN

Plaintiff,

v.

WILEY,
FOX,
JONES,
JAVERNICK,
COLLINS,
FENLON,
MADISON,
NALLEY,
WATTS,
LAPPIN, and,
DAVIS

Defendants.

ORDER

ENTERED BY MAGISTRATE JUDGE KRISTEN L. MIX

This matter is before the Court on Defendants' oral Motion for a *Martinez* order. For the reasons set forth on the record of the preliminary scheduling conference, the Motion is **GRANTED**. Pursuant to the Court's inherent case management authority, Fed. R. Civ. P. 1 and *Martinez v. Aaron*, 570 F.2d 317 (10th Cir. 1978), the Court hereby **ORDERS as follows:**

(1) Answers to the Amended Complaint [#21], including the report required herein, shall be filed no later than sixty (60) days from the date of the entry of this Order.

(2) No Answers or motions addressed to the Amended Complaint shall be filed

unless the measures set forth herein shall have been taken and completed.

(3) Officials responsible for operation of the United States Penitentiary Administrative Maximum (“ADX”) are directed to undertake a review of the subject matter of the Amended Complaint:

- a. to ascertain the facts and circumstances;
- b. to consider whether any action can and should be taken by the institution to resolve the subject matter of the Amended Complaint; and
- c. to determine whether other like complaints, whether pending in this court or elsewhere, are related to this Amended Complaint and should be considered together.

(4) In the conduct of the review, a written report shall be attached to and filed with the Defendants’ Answers to the Amended Complaint. Authorization is granted to interview all witnesses having knowledge of the facts, including the Plaintiff and appropriate officials at ADX. Statements of all witnesses shall be in affidavit form. Copies of all pertinent rules, regulations, official documents and, wherever appropriate, medical or psychiatric examinations shall be included in the written report.

(5) All reports made in the course of the review shall be attached to and filed with Defendants’ Answers to the Amended Complaint.

(6) Discovery by Plaintiff shall not commence until Plaintiff has received and reviewed Defendants’ Answers to the Amended Complaint and the report required herein. This action is exempt from the requirements imposed by Fed. R. Civ. P. 26(a) and 26(f).

Dated: May 6, 2010

BY THE COURT:

s/ Kristen L. Mix
Kristen L. Mix
United States Magistrate Judge