

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 09-cv-02207-CMA-KLM

JOSE MEDINA ESCOBAR,

Plaintiff,

v.

WARDEN S. JONES,  
DIRECTOR B. ZALMAN,  
ASSOCIATE WARDEN B. ALLEN,  
MAJOR HOLDITCH,  
CAPTAIN K. FOSTER,  
CAPTAIN J. DALTON,  
CAPTAIN LOGAN  
LIEUTENANT MARTZ,  
LIEUTENANT CHAVEZ,  
SERGEANT A. LUNA,  
SERGEANT BINDER,  
SERGEANT J. WEST,  
SERGEANT HARDRICK,  
SERGEANT VAN DYKE,  
SERGEANT HUDSPETH,  
SERGEANT KELEMAN  
C/O D. GALLAGHER,  
C/O BRYANT,  
C/O A. DALTON,  
C/O R. MARTINEZ,  
C/O PASARO,  
NURSE N. WALKER, and  
DOCTOR WRIGHT,

Defendants.

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**MINUTE ORDER**

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**ENTERED BY MAGISTRATE JUDGE KRISTEN L. MIX**

This matter is before the Court upon **Plaintiff's Motion for Leave to Amend This Complaint and Submit Additional Defendants** [Docket No. 21; Filed January 4, 2010]

(the "Motion"). Defendants did not respond, and the deadline for a response has passed.

Plaintiff filed his Complaint on September 15, 2009 [Docket No. 3]. The Court found that his Complaint did not comply with the requirements of Federal Rule of Civil Procedure 8(a) and directed Plaintiff to file an Amended Complaint or his Complaint would be dismissed [Docket No. 4]. Plaintiff filed an Amended Complaint [Docket No. 7] that the Court found deficient because it included extraneous documents but failed to include Defendants' addresses [Docket No. 8]. Plaintiff then filed a Second Amended Complaint [Docket No. 9], which was accepted by the Court.

In the Motion, Plaintiff seeks permission to amend his Second Amended Complaint to add additional Defendants and claims alleging that Defendants have retaliated against him for filing grievances and the instant lawsuit. Defendants do not oppose the Motion. Plaintiff makes his request within twenty-one days of the date on which all but two of the Defendants waived service [Docket No. 19]. Two Defendants have not yet been served. See Fed.R.Civ.P. 15(a) (allowing a party to amend its pleading once "as a matter of course" within twenty-one days after serving it). Plaintiff apparently intends the instant filing to be an addendum to his currently filed Second Amended Complaint. The second page of the Motion lists additional Defendants and begins numbering with the number "24," and within Claim 1 of the Amended Complaint, he states, "Plaintiff hereby incorporates by reference as if set forth herein verbatim, all of the statements and allegations with regards to the nature of the case and for relief set forth in Plaintiff's original Complaint." Plaintiff's Amended Complaint, Docket No. 21-2, ¶ 13.

Accordingly,

IT IS HEREBY **ORDERED** that the Motion is **GRANTED**. Plaintiff's Amended

Complaint is **accepted** for filing as of the date of this Minute Order.

IT IS FURTHER **ORDERED** that the Clerk is directed to file the Second Amended Complaint [Docket No. 9], together with page 2 of Docket No. 21 and Docket No. 21-2, as a separate document entitled "Third Amended Complaint." The Clerk shall also amend the caption of this action to include the names of Defendants added by Plaintiff in this Motion.

Dated: February 9, 2010