

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge Christine M. Arguello**

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

JOSE MEDINA ESCOBAR,

Plaintiff,

v.

WARDEN S. JONES,
DIRECTOR B. ZALMAN,
ASSOCIATE WARDEN B. ALLEN,
MAJOR C. HOLDITCH,
CAPTAIN K. FOSTER,
CAPTAIN J. DALTON,
LIEUTENANT MARTZ,
LIEUTENANT CHAVEZ,
SERGEANT A. LUNA,
SERGEANT P. 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 V. PASARO,
NURSE N. WALKER, and
DOCTOR WRIGHT,

Defendants.

ORDER

This matter is before the Court on Magistrate Judge Mix's "Order and Recommendation" (Doc. # 53) and Plaintiff's "Motion For Copy Of Plaintiff's Complaint At Court Expense And Extension of Time, An Additional 14 Days" (Doc. # 57).

Magistrate Judge Mix recommended dismissing Defendants Zalman and Van Dyke, without prejudice, pursuant to Fed. R. Civ. P. 4(m) and 41(b). She recommended dismissal because Plaintiff has neither effected service on these Defendants nor provided sufficient information so that the Court, through the U. S. Marshal, can effect service on Plaintiff's behalf. (Doc. # 53 at 3-4.)

Plaintiff now seeks an additional fourteen days to respond to this Recommendation, arguing that he needs more time because "Defendant Pool and 3 of her trusty guards" raided his cell and destroyed or confiscated parts of his complaint and other documents. (Doc. # 57 ¶¶ 2-3.)

The Court's Civil Practice Standards state that motions for extension of time will be granted only upon a showing of "good cause." CMA Civ. Practice Standards III.D.1. Plaintiff's request lacks good cause. He has been given adequate opportunity to comply with the Court's orders regarding service on these Defendants¹ and has failed to pursue his claims against them with diligence. The claims have been pending for over eight months.² Moreover, the recommended dismissal is without prejudice; thus, if Plaintiff locates these Defendants, he can seek to amend his complaint to add them.

Accordingly, because his motion lacks good cause, to the extent Plaintiff seeks an extension of time to respond to the Magistrate Judge's Recommendation, his motion (Doc. # 57) is DENIED. The Court ADOPTS and AFFIRMS Magistrate Judge Mix's Recommendation (Doc. # 53). Thus, Defendants Zalman and Van Dyke are

¹ (See Doc. # # 8, 27, 39.)

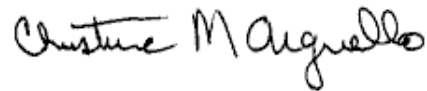
² (See Doc. # 3, Prisoner Complaint, filed September 15, 2009.)

DISMISSED, without prejudice.

However, to the extent Plaintiff seeks another copy of his complaint, the Court GRANTS his motion (Doc. # 57). It is ORDERED that Clerk shall mail Plaintiff a copy of his Third Amended Complaint (Doc. # 29), including all attachments.

DATED: May 28, 2010.

BY THE COURT:

A handwritten signature in cursive script that reads "Christine M. Arguello".

CHRISTINE M. ARGUELLO
United States District Judge