

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Honorable Marcia S. Krieger

Civil Action No. 09-cv-02329-MSK-KLM

ERIC CHRISTOPHER PROVENCIO,

Plaintiff,

v.

C. STARK, and
D. RODENBECK,

Defendants.

ORDER CONSTRUING PLAINTIFF'S NOTICE AS A MOTION

THIS MATTER comes before the Court on three of the Plaintiff's filings which have been docketed as Notices (**#14, 22, 23**). In the first filing (**#14**), Mr. Provencio seeks to have an attorney appointed to represent him in this civil action. In the second filing (**#22**), he repeats his request for an attorney. Finally, in the third filing (**#23**), he again repeats his request for an attorney and also requests that his response deadlines in the case be extended.

The Court is mindful that Mr. Provencio is proceeding *pro se*. Therefore, the Court construes his pleadings liberally and holds him to a "less stringent standard" than pleadings drafted by lawyers. *See Haines v. Kerner*, 404 U.S. 519, 520 (1972). Such liberal construction protects a *pro se* litigant from prejudice based on technical formatting errors, poor writing style, or other defects in the use of legal terminology, citation, and theories. *See Hall v. Bellmon*, 935 F.2d 1106, 1110 (10th Cir. 1991). It does not, however, relieve a party of the duty to comply with the various rules and procedures governing litigants and counsel or the requirements of the

substantive law, and in these regards, the Court must apply the same standard to counsel licensed to practice law and to a *pro se* party. See *McNeil v. United States*, 508 U.S. 106, 113 (1993); *Ogden v. San Juan County*, 32 F.3d 452, 455 (10th Cir. 1994).

Although lacking a citation to the proper statute, Mr. Provencio's filings clearly request the appointment of an attorney for assistance in this civil action pursuant to 28 U.S.C. § 1915(e)(1) and an extension of any response deadlines in the case. As there are not any response deadlines currently in this case, that portion of Mr. Provencio's filings is not relevant at this time. Therefore, the Court construes Mr. Provencio's third Notice (#22) as a Motion to Appoint Attorney pursuant to 28 U.S.C. § 1915(e)(1). The Clerk of Court is directed to amend the docket accordingly.

Dated this 10th day of December, 2009

BY THE COURT:

A handwritten signature in black ink that reads "Marcia S. Krieger". The signature is written in a cursive style with a horizontal line underneath it.

Marcia S. Krieger
United States District Judge