

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
SENIOR JUDGE WALKER D. MILLER

Civil Action No. 10-cv-01105-WDM-CBS

JOHN H. ALPERS, JR.,

Plaintiff,

v.

TOWN OF ERIE, a township,  
JOHN HALL, Chief of Police for the Town of Erie,  
SERGEANT REX BROWN, Police Officer for the Town of Erie, and  
OFFICER PHIL LUKENS, Police Officer for the Town of Erie,

Defendants.

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**ORDER REGARDING VOLUNTARY DISMISSAL**

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Miller, J.

This matter is before me on Plaintiff's Amended Unopposed Motion to Dismiss Claims for Relief Four and Five and Paragraphs B and C of Plaintiff's Prayer for Relief (ECF No. 54). Plaintiff apparently concedes that two of his claims and portions of his prayer for his relief are unnecessary and should be dismissed. I will construe the motion as a motion to amend pursuant to Fed. R. Civ. P. 15(a) and will grant it.

*Ethridge v. Harbor House Rest.*, 861 F.3d 1389, 1392 (9th Cir. 1988) (“[Rule] 15(a) is the appropriate mechanism ‘[w]here a plaintiff desires to eliminate an issue, or one or more but less than all of several claims, but without dismissing as to any of the defendants.’”) (quoting 5 J. Moore, J. Lucas & J. Wicker, *Moore's Federal Practice* ¶ 41.06-1, at 41-83 to -84 (1987)).

Accordingly, it is ordered:

1. Plaintiff's Amended Unopposed Motion to Dismiss Claims for Relief Four and Five and Paragraphs B and C of Plaintiff's Prayer for Relief (ECF No. 54) is granted.
2. Plaintiff shall file, no later than January 7, 2011, an amended complaint removing paragraphs 55 to 59, his Fourth and Fifth Claims for Relief, and Paragraphs B and C of his Prayer for Relief.

DATED at Denver, Colorado, on December 29, 2010.

BY THE COURT:



s/ Walker D. Miller

United States Senior District Judge