

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Magistrate Judge Boyd N. Boland

Civil Action No. 10-cv-01853-WYD-BNB

SANFORD B. SCHUPPER,

Plaintiff,

v.

ROBYN CAFASSO, in his individual and official capacity,
WILLIAM EDIE, in his individual and official capacity,
JEANIE SMITH, in her individual and official capacity,
DAVID ZOOK, in his individual and official capacity,
JOHN NEWSOME, in his individual and official capacity,
DAN MAY, in his individual and official capacity,
LINDA DIX, in her individual and official capacity,
RAYMOND SANTISTEVAN, in his individual and official capacity,
RONALD WILKINS, in his individual and official capacity,
ANDREA WALTON, in her individual and official capacity,
DEBBI PARR, in her individual and official capacity,
JOHN RUSZCZYK in his individual and official capacity, and
JOHN DOE, JANE DOES, DOES 1-X,

Defendants.

ORDER

This matter arises on **Plaintiff's Motion to Proceed on Claim of Unconstitutionality (With Amended Prayer for Relief) Pursuant to FedCivP 5.1** [Doc. #100, filed 12/23/2011] (the "Motion to Proceed"). The Motion is DENIED.

The plaintiff requests that he be permitted to proceed in this action with his constitutional challenge to section 18-1.3-204(4), C.R.S. He summarily claims that this issue "was improperly declared moot by U.S. Federal District Court Judge Wiley Daniel." *Motion*, ¶ 12.

This case was administratively closed pursuant to D.C.COLO.LCivR 41.2, pending a showing of good cause to reopen by the plaintiff after his state proceedings are final [Doc. #71]. The plaintiff has not made such a showing.

In addition, the plaintiff complains that he “has repeatedly advised this Court that he was not timely served with a copy” of the recommendation and subsequent order which administratively closed the case and therefore “could not timely respond and object.” *Motion*, ¶ 9. However, the recommendation was timely served on the plaintiff at his email address of record on February 7, 2011, and the order was timely served on him at his email address of record on March 2, 2011. The court did not receive a notice of change of address from the plaintiff as required by D.C.COLO.LCivR 10.1M until March 8, 2011. Accordingly,

IT IS ORDERED that the Motion is DENIED.

Dated January 17, 2012.

BY THE COURT:

s/ Boyd N. Boland
United States Magistrate Judge