

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 10-cv-02504-DME-KLM

THOMAS RADICK,

Plaintiff,

v.

MARK IPPOLITO, Health Services Administrator, FCI Englewood,
DR. KRAUSE, Physician, FCI Englewood,
MR. GARZA, Physician's Assistant, FCI Englewood,
NURSE WAGONER, Nurse, FCI Englewood,
MRS. LEYBA, Administrative Hearing Officer, FCI Englewood,
MR. WALDO, Case Manager, FCI Englewood,
MS. DONSANJ, Unit Manager, FCI Englewood, and
MR. WATTS, F.B.O.P. Administrative Remedy Coordinator, Central Office, in his official
and individual capacity,

Defendants.

MINUTE ORDER

ENTERED BY MAGISTRATE JUDGE KRISTEN L. MIX

This matter is before the Court on Plaintiff's **Motion Requesting Immediate Action on Emergency Habeas Corpus Pursuant to 28 U.S.C. § 2241** [Docket No. 56; Filed February 16, 2011] (the "Motion"). As an initial matter, the Court notes that Plaintiff mailed the Motion to the Clerk of the Court without indicating the case in which the Motion was to be filed. All motions filed with the Court must be properly captioned, i.e., **the party filing a motion must write the name and number of the case in which the motion is to be filed as a heading on the first page of the motion.** Because Plaintiff failed to comply with this rule, the Motion is subject to being stricken on this basis alone.

It is not clear to the Court whether Plaintiff intended the Motion to be filed in this case or in another pending case in which he is also the plaintiff, Case No. 1:11-cv-00298-BNB. In Plaintiff's other case, he seeks a writ of habeas corpus pursuant to 28 U.S.C. § 2241. Thus, based on the title Plaintiff has given his Motion, it seems that he intended the Motion to be filed in Case No. 1:11-cv-00298-BNB. However, the substance of the Motion concerns Plaintiff's medical condition and the alleged ongoing denial of proper medical treatment. The Motion therefore relates to Plaintiff's claims in this case. Furthermore, the Court construes the Motion as requesting a preliminary injunction, which is relief more

appropriately granted in this case. Accordingly, the Clerk of the Court accepted the Motion for filing in this case.

Turning to the merits of the Motion, the Court finds that to the extent it seeks a preliminary injunction, it is duplicative. Plaintiff has already filed a Motion Requesting Enforcement of Preliminary Injunction With Order for Immediate Medical Treatment [Docket No. 54] in this case.

For the reasons set forth above,

IT IS HEREBY **ORDERED** that the Motion [#56] is **STRICKEN** from this case.

IT IS FURTHER **ORDERED** that the Clerk of the Court shall refile the Motion in Case No. 1:11-cv-00298-BNB. Upon refiling, the Court will determine whether the Motion should also be stricken from that case.

IT IS FURTHER **ORDERED** that any future motion submitted by Plaintiff that is not properly captioned will not be accepted for filing in either this case or Case No. 1:11-cv-00298-BNB.

Dated: February 18, 2011