

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 10-cv-02738-REB-MEH

CURTIS L. LILLY,

Plaintiff,

v.

MR. JASON FASSLER, Correctional Officer, Fremont Correctional Facility, and  
MR. ROBERT BEAUMONT, Correction Officer, Fremont Correctional Facility,

Defendants.

---

**MINUTE ORDER**

---

**Entered by Michael E. Hegarty, United States Magistrate Judge, on August 25, 2011.**

Plaintiff's Motion to Re-Hear and to Clarify the Order Entered by U.S. Magistrate Judge Hegarty on the 16<sup>th</sup> Day of August 2011 [[filed August 24, 2011; docket #50](#)] is **granted in part and denied in part**. The motion is granted only to clarify that the Court's August 16, 2011 order denied Plaintiff's motion for leave to file a Second Amended Complaint *without prejudice* because the motion did not include an attached proposed Second Amended Complaint as required. Because the motion was denied without prejudice, the Plaintiff is free to re-file a motion for leave to amend, but he must attach to the motion a proposed Second Amended Complaint. The Clerk of the Court is directed to send with this minute order a form prisoner complaint to the Plaintiff for his use, if he so chooses to seek leave to amend.

The Court will also clarify for the Plaintiff that this Court did not grant him leave to file a Second Amended Complaint with its July 21, 2011 Recommendation but, rather, merely recommended that the District Judge, the Honorable Robert E. Blackburn, grant the Plaintiff leave to file an amended complaint. Judge Blackburn has yet issued no order on the recommendation. Therefore, it is proper at this stage of the litigation that the Plaintiff, if he so chooses, seek the court's leave to file a Second Amended Complaint by filing a motion.

All other relief sought by the present motion is denied.