

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

Civil Action No. 11-cv-00341-MSK-MEH

DAVID LEE BURKHART,

Plaintiff,

v.

WARDEN RAE TIMME, in her official and personal capacity;
CASE MANAGER ARTHUR TRAINOR, in his official and personal capacity;
ASSISTANT WARDEN RON WAGER, in his official and personal capacity;
CASE MANAGER III SHELLY ORTIZ, in her official and personal capacity; and
CORRECTIONAL OFFICER I MS. SEGURA, in her official and personal capacity,

Defendants.

FINAL JUDGMENT

In accordance with orders filed during the pendency of this case, and pursuant to Fed. R. Civ. P 58(a), the following Final Judgment is hereby entered.

I. Pursuant to the Opinion and Order filed on December 7, 2011, Granting in Part and Denying in part the defendants' Motion to Dismiss, it is

ORDERED that the Motion to Dismiss (#27) is GRANTED IN PART AND DENIED IN PART, as follows:

- (a) all claims for monetary damages asserted against the Defendants in their official capacities are dismissed with prejudice as legally barred;
- (b) all claims for injunctive relief against Defendants Trainor, Wager, Ortiz, and Segura in their official capacities are dismissed with prejudice as legally barred;
- (c) the Eighth Amendment claim based on Mr. Burkhart's placement in RP status

is dismissed without prejudice to amendment upon a proper showing;

(d) the Double Jeopardy claim is dismissed with prejudice as legally barred; and

(e) the Fourth Amendment claim based on searches of Mr. Burkhart's cell is dismissed with prejudice as legally barred.

II. Pursuant to the Opinion and Order filed on January 25, 2013, it is

ORDERED that the Defendants' Motion for Summary Judgment (# 95) is **GRANTED** and final judgment is entered in favor of all defendants and against Mr. Burkhart on all claims, and the case is closed. It is further

ORDERED that defendant is AWARDED its costs, to be taxed by the Clerk of the Court pursuant to Fed. R. Civ. P. 54(d)(1) and D.C.COLO.LCivR 54.1.

Dated at Denver, Colorado this 29th day January, 2013.

ENTERED FOR THE COURT:
JEFFREY P. COLWELL, CLERK

By: s/Edward P. Butler

Edward P. Butler
Deputy Clerk