

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 11-cv-01027-BNB

PAUL W. SPENCE,

Plaintiff,

v.

CCA,
LOUIS CABILING, M.D., DOC, and
ARISTEDES ZAVARES,

Defendants.

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

JUN 17 2011

GREGORY C. LANGHAM
CLERK

ORDER TO DISMISS IN PART AND TO DRAW IN PART

Plaintiff, Paul W. Spence, is in the custody of the Colorado Department of Corrections and currently is incarcerated at the Fremont Correctional Facility in Cañon City, Colorado. On April 18, 2011, Mr. Spence, acting *pro se*, submitted to the Court a Prisoner Complaint pursuant to 42 U.S.C. § 1983 and 28 U.S.C. § 1343. Magistrate Judge Boyd N. Boland reviewed the Complaint and entered an order on April 29, 2011, instructing Mr. Spence to file an Amended Complaint within thirty days and to state how each named Defendant personally participated in the alleged constitutional violations.

On May 23, 2011, Mr. Spence filed a request for an extension of time to file an Amended Complaint. Magistrate Judge Boland granted the extension and directed Mr. Spence to comply with the April 29 Order by June 15, 2011. Although Mr. Spence did not file an Amended Complaint within the time allowed, the Court will proceed to review the merits of the claims Mr. Spence asserted in the original Complaint.

Mr. Spence was instructed in the April 29 Order that he must assert personal participation by each named defendant and explain what each defendant did to him,

when the defendant did the action, how the action harmed him, and what specific legal right he believes the defendant violated. Mr. Spence also was instructed in the April 29 Order that although he had asserted claims against Defendant Louis Cabiling he had failed to assert any claims against Defendants Aristedes Zavares and CCA. Because Mr. Spence has elected not to file an Amended Complaint and cure the deficiencies in his original Complaint he has failed to state a claim against Defendants Zavares and CCA. As a result, the Court will dismiss these two Defendants.

The Eighth Amendment claim Mr. Spence asserts against Defendant Cabiling, seeking proper medical treatment and money damages, will be drawn to a district judge and to a magistrate judge. Accordingly, it is

ORDERED that the Complaint and claims asserted against Defendant Louis Cabiling shall be drawn to a district judge and to a magistrate judge. It is

FURTHER ORDERED that Defendants CCA and Aristedes Zavaras are dismissed from the action, and the Clerk of the Court is instructed to remove them as named parties to this action.

DATED at Denver, Colorado, this 17th day of June, 2011.

BY THE COURT:

s/Lewis T. Babcock
LEWIS T. BABCOCK, Judge
United States District Court

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

CERTIFICATE OF MAILING

Civil Action No. 11-cv-01027-BNB

Paul W. Spence
Prisoner No. 61835
Fremont Correctional Facility
PO Box 999
Cañon City, CO 81215- 0999

I hereby certify that I have mailed a copy of the **ORDER** to the above-named individuals on June 17, 2011.

GREGORY C. LANGHAM, CLERK

By: _____


Deputy Clerk