

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 11-cv-01566-BNB

ANDREW MARK LAMAR,

Plaintiff,

v.

COLORADO STATE PENITENTIARY,  
SUSAN JONES, Warden of C.S.P.,  
KATHLEEN BOYD, NP (No. 12547),  
JOSEPH W. WRIGHT, Physician (No. 14549),  
DAVE PLOUGHE, (No. 12074), and  
PHIL DeFELICE,

Defendants.

**FILED**  
UNITED STATES DISTRICT COURT  
DENVER, COLORADO

**OCT 24 2011**

**GREGORY C. LANGHAM**  
CLERK

---

ORDER TO DISMISS IN PART AND TO DRAW IN PART

---

Plaintiff, Andrew Mark Lamar, is in the custody of the Colorado Department of Corrections and currently is incarcerated at the Colorado State Penitentiary in Cañon City, Colorado. On June 15, 2011, Mr. Lamar, 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 Craig B. Shaffer reviewed the Complaint and entered an order on August 22, 2011, instructing Mr. Lamar to file an Amended Complaint within thirty days and to state how each named defendant personally participated in the alleged constitutional violations.

Mr. Lamar filed an Amended Complaint but failed to assert all claims on the complaint form. Magistrate Judge Boyd N. Boland gave Mr. Lamar an additional thirty days to file a properly amended complaint. Magistrate Judge Boland also instructed Mr. Lamar that if he failed to comply within the time allowed the Court would proceed to review the merits of the Complaint he originally filed with the Court on June 15, 2011.

Mr. Lamar now has failed to file a Second Amended Complaint within the time allowed. The Court, therefore, will proceed to review the merits of the June 15 Complaint.

Mr. Lamar was instructed in the August 22 Order that he must assert personal participation by Defendants Susan Jones, Dave Ploughe, and Phil DeFelice 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. Lamar also was instructed in the August 22 Order that the Colorado State Penitentiary is immune from suit. Because Mr. Lamar failed to file a proper Second Amended Complaint, and the Court is reviewing only the merits of the claims asserted in the original Complaint, Defendants Colorado State Penitentiary, Jones, Ploughe, and DeFelice will be dismissed.

The Eighth Amendment claim Mr. Lamar asserts against Defendants Kathleen Boyd and Joseph W. Wright seeking money damages and declaratory relief will be drawn to a district judge and to a magistrate judge. Accordingly, it is

ORDERED that the Complaint and claims asserted against Defendants Kathleen Boyd and Joseph W. Wright shall be drawn to a district judge and to a magistrate judge. It is

FURTHER ORDERED that Defendants Colorado State Penitentiary, Susan Jones, Dave Ploughe, and Phil DeFelice are dismissed. The Clerk of the Court is instructed to remove them as named parties to this action.

DATED at Denver, Colorado, this 24<sup>th</sup> day of October, 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-01566-BNB

Andrew Mark Lamar  
Prisoner No. 113997  
Colorado State Penitentiary  
PO Box 777  
Cañon City, CO 81215- 0777

I hereby certify that I have mailed a copy of the **ORDER** to the above-named individuals on October 24, 2011.

GREGORY C. LANGHAM, CLERK

By: \_\_\_\_\_



Deputy Clerk