

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
Magistrate Judge Boyd N. Boland

Civil Action No. 11-cv-03078-CMA-BNB

DARLENE GRIFFITH,

Plaintiff,

v.

CARMAN A. MEYER, R.N.,  
LOUIS CABILING, M.D.,  
JUDY BRIZENDINE, H.S.A.,  
DOUG ROBERTS, P.P.M.U.,  
MS. J. GRAY, H.S.A.,  
JOHN DOE, M.D.,  
MS. TORRES, R.N., and  
CHEIF [sic] MEDICAL OFFICER,

Defendants.

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**ORDER**

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This matter arises on the following motions:

1. **Motion to Dismiss from Defendants Cabiling, Brizendine, and Gray** [Doc. #18, filed 05/18/2012];
2. **Colorado Department of Corrections Defendants' Motion to Dismiss** [Doc. #38, filed 07/13/2012]; and
3. **Plaintiff's Motion for Leave to Amend Complaint** [Doc. #53, filed 09/13/2012] (the "Motion to Amend");

The plaintiff seeks leave to amend her First Amended Prisoner Complaint [Doc. #6] to add defendants and allegations. The Federal Rules of Civil Procedure provide that a party may amend a pleading by leave of court, and that leave shall be given freely when justice so requires.

Fed.R.Civ.P. 15(a). A motion to amend may be denied on the grounds of undue delay, bad faith or dilatory motive on the part of the movant, repeated failure to cure deficiencies by amendments previously allowed, undue prejudice to the opposing party by virtue of allowance of the amendment, or futility of amendment. Foman v. Davis, 371 U.S. 178, 182 (1962).

It does not appear that the proposed amendment is the result of any undue delay, bad faith or dilatory motive on the part of the plaintiff, or repeated failure to cure deficiencies by amendments previously allowed. Nor does it appear that the amendment is futile or that it will result in any undue prejudice to the opposing parties. Foman v. Davis, 371 U.S. 178, 182 (1962).

The defendants' motions to dismiss are directed at the First Amended Complaint, which now is superseded by the Second Amended Complaint. As a result, the motions to dismiss currently on file are moot.

IT IS ORDERED:

1. Plaintiff's Motion for Leave to Amend Complaint [Doc. #53] is GRANTED;
2. The Clerk of the Court is directed to accept the Second Amended Complaint [Doc. #53-1] for filing;
3. The Motion to Dismiss from Defendants Cabiling, Brizendine, and Gray [Doc. #18] and Colorado Department of Corrections Defendants' Motion to Dismiss [Doc. #38] are DENIED without prejudice as moot.

Dated November 7, 2012.

BY THE COURT:

s/ Boyd N. Boland  
United States Magistrate Judge