

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 11-cv-03108-BNB

JOHN HUTCHINSON,

Plaintiff,

v.

SGT. HOULE, at Buena Vista Minimum Center,  
JOHN DAVIS, Warden of Buena Vista Corrections Center, and  
TOM CLEMENTS, Director of Department of Corrections,

Defendants.

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ORDER TO DISMISS IN PART AND TO DRAW IN PART

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Plaintiff, John Hutchinson, is in the custody of the Colorado Department of Corrections (DOC). He currently is incarcerated at the DOC correctional facility in Buena Vista, Colorado. On November 29, 2011, Mr. Hutchinson, 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 January 18, 2012, instructing Mr. Hutchinson to file an Amended Complaint within thirty days and to state how each named Defendant personally participated in the alleged constitutional violations. Mr. Hutchinson was instructed that if he failed to file an Amended Complaint and comply with the January 18 Order the Court would proceed with a review of the merits of only the claims asserted against Defendant Houle.

Mr. Hutchinson now has failed to file an Amended Complaint within the time allowed. The Court will proceed to review the merits of the claims Mr. Hutchinson asserted in the original Complaint.

Mr. Hutchinson was instructed in the January 18 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. Because Mr. Hutchinson 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 John Davis and Tom Clements. As a result, the Court will dismiss these Defendants.

The deliberate indifference claim Mr. Hutchinson asserts against Defendant Houle, seeking 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 Houle shall be drawn to a district judge and to a magistrate judge. It is

FURTHER ORDERED that Defendants John Davis and Tom Clements 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 27<sup>th</sup> day of February, 2012.

BY THE COURT:

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