

IN THE UNITED STATES DISTRICT COURT  
OR THE DISTRICT OF COLORADO  
**Senior Judge Wiley Y. Daniel**

Civil Action No. 12-cv-00383-WYD-NYW

THERON JOHNNY MAXTON, # 85599-071,

Plaintiff,

v.

UNITED STATES OF AMERICA;  
BOP DIRECTOR, Washington, D.C.;  
T.K COZZA-RHODES, Warden F.C.I.;  
CHARLES DANIEL, Warden F.C.I.;  
S. COLLINS, Health Service, U.S.P.;  
LT. ANTHONY, U.S.P. Florence,

Defendants.

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**ORDER**

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This matter is before the Court on Plaintiff's "Motion to Reopen the Above Case for Just Cause" and Notice filed July 6, 2015. I note by way of background that this case was stayed by Magistrate Judge Boland by Order of February 18, 2014, due to the pendency of a criminal proceeding. He found that "the facts of this case overlap with the facts of the criminal proceeding" and that "because the plaintiff is proceeding *pro se* in this action and has raised the issue of his mental competency to stand trial in his criminal action, his ability to protect his Fifth Amendment rights is of particular concern." (ECF No. 120 at 4.) Plaintiff filed objections to that Order which I overruled by Order of April 4, 2014.

On June 16, 2014, Magistrate Judge Boland filed a Recommendation of United States Magistrate Judge in which he stated that “[i]t appears uncertain when the plaintiff’s criminal case finally will be resolved.” (ECF No. 125 at 4.) Accordingly, he found that administrative closure of the case was appropriate under D.C.COLO.LCivR 41.2. (*Id.*) This Recommendation was affirmed and adopted by me by Order of October 10, 2014. The Order thus administratively closed the case, subject to being reopened for good cause “which, in this case, means resolution of the criminal case in state court.” (ECF No. 130 at 3.) I noted in the Order that the “Recommendation does not dispose of any claim or defense; all of the [Plaintiff’s] current claims will remain available to him when” the criminal case is resolved “and the case is reopened.” (*Id.*) (quotation omitted).

Plaintiff indicates in his motion that the criminal trial has concluded, and states in his “Notice” that he was sentenced in the criminal case on June 19, 2015. Defendants did not file a response to Plaintiff’s motion; thus, I assume that Defendants do not disagree with Plaintiff’s representations regarding the criminal trial and have no objection to reopening the case. Since it appears that the criminal proceeding has now been resolved, I find that Plaintiff has shown good cause for the reopening of the case. Accordingly, it is

ORDERED that Plaintiff’s Motion to Reopen the Above Case for Just Cause (ECF No. 150) is **GRANTED**. The Clerk shall reopen the case. It is

FURTHER ORDERED that the parties shall file a status report as to where the case stands by **Wednesday, September 2, 2015**.

Dated: August 20, 2015

BY THE COURT:

s/ Wiley Y. Daniel \_\_\_\_\_  
Wiley Y. Daniel  
Senior United States District Judge