

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 12-cv-01060-MSK-MJW

JAMIE DAVIS,

Plaintiff(s),

v.

UNITED STATES OF AMERICA,

Defendant(s).

MINUTE ORDER

Entered by Magistrate Judge Michael J. Watanabe

It is hereby **ORDERED** that the plaintiff's Motion to Amend Complaint Pursuant to Bivens (Docket No. 79) is granted. The tendered Amended Complaint (Docket No. 79-1) is accepted for filing as of the date of this Minute Order, and the caption of this case is amended as reflected above.

The court notes that the title of the plaintiff's motion confusing states that he is amending his Complaint pursuant to Bivens, and the body of his motion furthers the confusion by seeming to indicate he was merely reiterating his dismissed Bivens claims against the individual defendants. A review of the tendered amended pleading (Docket No. 79-1), however, shows that plaintiff is, in fact, now naming solely the United States as a defendant and purports to raise a claim under the Federal Tort Claim Act rather than Bivens. The court notes that the defendants apparently raise a statute of limitations argument in their Response (Docket No. 81). The court finds, however, that such an argument would best be raised in an appropriate dispositive motion by the United States. For these reasons, the motion to amend shall be granted, and the tendered amended pleading is accepted for filing.

In the interest of moving this case forward, it is further **ORDERED** that on or before December 16, 2013, defense counsel shall advise the court whether he will accept service of the Amended Complaint on behalf of the United States or whether the court should arrange for service to be effected by the U.S. Marshal Service.

Date: December 5, 2013
