

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

Civil Action No. 12-cv-01689-BNB-KMT

BRIAN PATRICK SPENSER PERCEVAL,

Plaintiff,

v.

GRAYSON ROBINSON, Sheriff,  
MRS. ELAINE, HSA, and  
JANE DOE I, Nurse,

Defendants.

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**ORDER**

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This matter arises on **Plaintiff's Objections to Recommendations of United States Magistrate Judge Boyd N. Boland** [Doc. #38], which I have construed as a Motion for Reconsideration (the "Motion"). The Motion is DENIED.

The plaintiff filed his Amended Prisoner Complaint on August 23, 2012 [Doc. #9] (the "Complaint"). The Complaint asserts five claims. The defendants filed a motion to dismiss the Complaint on September 26, 2012 [Doc. #17]. I recommended [Doc. #29] that the motion be denied to the extent it sought dismissal of Claim One and granted insofar as it sought dismissal of Claims Two, Three, Four, and Five.

Subsequently, all parties consented to the exercise of jurisdiction by a magistrate judge. On June 11, 2013, the district judge ordered [Doc. #33] that the case be assigned to me as the presiding judge for all purposes pursuant to D.C.COLO.LcivR 72.2E and that my Recommendation be treated, *nunc pro tunc*, as an order.

On June 13, 2013, the plaintiff filed “Plaintiff’s Objections to Recommendation of United States Magistrate Judge Boyd N. Boland” [Doc. #38] (“Plaintiff’s Objections”). On June 26, 2013, I construed Plaintiff’s Objections as a Motion for Reconsideration and ordered further briefing [Doc. #42]. The matter is now fully briefed.

“Grounds warranting a motion to reconsider include (1) an intervening change in the controlling law, (2) new evidence previously unavailable, and (3) the need to correct clear error or prevent manifest injustice.” Servants of the Paraclete v. Does, 204 F.3d 1005, 1012 (10<sup>th</sup> Cir. 2000). “[A] motion for reconsideration is appropriate where the court has misapprehended the facts, a party’s position, or the controlling law. It is not appropriate to revisit issues already addressed or advance arguments that could have been raised in prior briefing.” Id. (internal citations omitted).

The plaintiff argues that he should be permitted to proceed on Claims Two and Three. In doing so, he merely restates the facts alleged in his Complaint. Accordingly, Plaintiff’s Objections do not establish any of the necessary bases for reconsideration of my order.

IT IS ORDERED that the Motion to Reconsider [Doc. #38] is DENIED.

Dated August 28, 2013.

BY THE COURT:

s/ Boyd N. Boland  
United States Magistrate Judge