

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Magistrate Judge Kathleen M. Tafoya

Civil Action No. 12-cv-01921-PAB-KMT

DELMART E.J.M. VREELAND, II,

Plaintiff,

v.

SERGEANT GRIGGS, CDOC/BVCF Mailroom,

Defendant.

MINUTE ORDER

ORDER ENTERED BY MAGISTRATE JUDGE KATHLEEN M. TAFOYA

Plaintiff's "Motion for Leave to Respond to Defendant's Newly Raised Objection(s) and Issues Cleverly Hidden Within Defendant's Reply Brief in Support of Motion for Summary Judgment" (Doc. No. 213) is **DENIED**. The Local Rules do not allow for the filing of a surreply brief. See D.C.COLO.LCivR 7.1(d). The decision to grant leave to file a surreply falls within the discretion of the district court. *Pippin v. Burlington Res. Oil & Gas Co.*, 440 F.3d 1186, 1192 (10th Cir. 2006). However, "if the court relies on new materials or new arguments in a reply brief, it may not forbid the nonmovant from responding to these new materials." *Id.* (citation omitted). "[I]f the district court does preclude a surreply, then the court can avoid error only by not relying on the new materials and arguments in the movant's reply brief." *Id.*

To the extent Defendant provides new materials or makes new arguments in his reply (Doc. No. 208), the court will not consider the materials or arguments. Thus, there is no need to allow the filing of a surreply. Accordingly, "Plaintiff's Response to Defendant's Newly Raised Objection(s) and Issues Hidden Within Defendant's Reply Brief in Support of Motion for Summary Judgment" (Doc. No. 212) is **STRICKEN**.

Dated: April 27, 2015