IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 12-cv-02139-RPM

ESTATE OF BRIAN O'LEARY, by and through Brandon O'Leary as personal
representative;
BRANDON O'LEARY, and
SHANE O'LEARY, as next of kin of decedent,

      Plaintiffs,
v.

COUNTY OF EL PASO, COLORADO;
EL PASO COUNTY SHERIFF'S OFFICE;
BUREAU CHIEF PAULA PRESLEY, in her official capacities;
EL PASO COUNTY SHERIFF TERRY MAKETA, in his official capacity;
CORRECTIONAL HEALTHCARE MANAGEMENT;
DIANE AL-ABDULJALIL, M.D., in her individual and official capacities;
SEAN EHLINGER, R.N., in his individual and official capacities;
CAROL ANSLEY, R.N., in her individual and official capacities; and
PATRICIA MILLER, L.P.N., in her individual and official capacities,

      Defendants.

ORDER OF DISMISSAL

Upon hearing held today on the respective defendants' motions to dismiss

pursuant to Fed.R.Civ.P. 12(b)(6) and after consideration of the amended complaint,

filed November 19, 2012, the plaintiffs' responses to the respective motions to dismiss,

including the attached exhibits, and the statements of plaintiffs' counsel, the plaintiffs

have failed to show that there is any evidentiary support for the claims made for a

violation of the Eighth and Fourteenth Amendments to the United States Constitution

alleged in the first, second and third claims for relief of the amended complaint. This is

a case in which medical negligence may be indicated but there is no support for the

allegations of deliberate indifference to the detainee's medical needs sufficient for a Constitutional violation. Because the federal claims are dismissed, there is no supplemental jurisdiction for the remaining claims in the amended complaint. It is therefore

ORDERED that the first, second and third claims for relief are dismissed under Fed.R.Civ.P. 12(b)(6) and the fourth through eleventh claims for relief are dismissed without prejudice pursuant to Fed.R.Civ.P. 12(b)(1).

DATED: March 20, 2013

BY THE COURT:

s/Richard P. Matsch

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Richard P. Matsch, Senior District Judge