

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 12-cv-02348-BNB

MILTON BRADLEY GAREWAL

Plaintiff,

v.

UNKNOWN U.S. MARSHAL,
UNKNOWN U.S. MARSHAL,
DOCTOR CRUM,
NURSE JOHNSON,
CITY AND COUNTY OF DENVER JAIL SUPERVISOR, and
DENVER HEALTH UNKNOWN SUPERVISOR,

Defendants.

ORDER TO DISMISS IN PART AND TO DRAW IN PART

Plaintiff, Milton Bradley Garewal, currently is detained at the Denver County Jail in Denver, Colorado. On September 4, 2012, Plaintiff, acting *pro se*, initiated this action by filing a Prisoner Complaint pursuant to 42 U.S.C. § 1983 and 28 U.S.C. § 1343. On October 2, 2012, Plaintiff amended the Complaint. In the Amended Complaint, Plaintiff asserted that his constitutional rights were violated on May 11, 2012, when two Unknown U.S. Marshals shackled his feet during transport to a court appearance, even though he suffers from “Dropped Foot” and, as a result, he fell and broke his foot. Plaintiff further asserted that jail staff violated his constitutional rights when they delayed proper treatment of the broken foot for ten days.

Magistrate Judge Boyd N. Boland reviewed the Amended Complaint and entered an order on October 15, 2012, instructing Plaintiff that he must assert personal

participation by all named defendants and provide sufficient information about the Unknown U.S. Marshals so that they can be identified for purposes of service. Plaintiff filed a Second Amended Complaint on November 28, 2012.

Although in the Second Amended Complaint he has stated how the two Unknown U.S. Marshals and Doctor Crum and Nurse Johnson personally participated in violating his constitutional rights, Plaintiff has failed to state how the Denver Jail and the Denver Health Supervisors participated in any violation of his constitutional rights. These Defendants, therefore, will be dismissed from the action.

The Court further notes that Claim Three also will be dismissed because Plaintiff fails to identify who specifically is responsible for the violations he asserts in the claim. The only individuals Plaintiff identifies in Claim Three are a nurse, an orthopedic doctor, the Denver General Hospital, and the employees of the hospital. None of these is named as defendants and nothing Plaintiff asserts in Claim Three identifies the names of the nurse, the doctor, or the employees. Furthermore, Plaintiff fails to assert how any of these defendants are responsible for the jail's continuing denial of a brace for his foot and the alleged violation of his constitutional rights. Accordingly, it is

ORDERED that the Complaint and claims asserted against Defendants Unknown U.S. Marshals (male and female who escorted him from the Denver County Jail to the federal building on May 11, 2012), Doctor Crum, and Nurse Johnson shall be drawn to a district judge and to a magistrate judge. It is

FURTHER ORDERED that Defendants City and County of Denver Jail Supervisor and Denver Health Unknown Supervisor are dismissed from the action. It is

FURTHER ORDERED that Claim Three is dismissed from the action.

DATED at Denver, Colorado, this 28th day of January, 2013.

BY THE COURT:

s/Lewis T. Babcock
LEWIS T. BABCOCK, Senior Judge
United States District Court