

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 13-cv-00400-PAB-MEH

GLENICE MARTINEZ

Plaintiff,

v.

JAMES QUINN, in his personal and official capacities,
PEGGY HEIL, in her personal and official capacities,
THE ESTATE OF TOM CLEMENTS,
LISA CLEMENTS, as the personal representative of the Estate of Tom Clements, and
ROGER WERHOLTZ, Acting Executive Director of the DOC, in his official capacity,

Defendants.

MINUTE ORDER

Entered by Judge Philip A. Brimmer

This matter is before the Court on the Motions to Dismiss filed by defendant James Quinn [Docket No. 12] and by Peggy Heil and the Office of the Executive Director of the Colorado Department of Corrections [Docket No. 13]. On June 25, 2013, plaintiff filed a Second Amended Complaint [Docket No. 29] pursuant to the Order [Docket No. 28] granting plaintiff's Motion for Leave to File Second Amended Complaint [Docket No. 22]. Thus, the Second Amended Complaint became the operative pleading in this action, and the Motions to Dismiss [Docket Nos. 12 and 13] are directed to an inoperative, superseded pleading. *See, e.g., Gilles v. United States*, 906 F.2d 1386, 1389 (10th Cir. 1990) ("a pleading that has been amended under Rule 15(a) supersedes the pleading it modifies") (internal quotation marks omitted). As such, the motions to dismiss are moot. It is

ORDERED that defendants' Motions to Dismiss [Docket Nos. 12 and 13] are DENIED as moot.

DATED June 26, 2013.