

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 13-cv-00749-BNB

JEREMY PINSON,

Plaintiff,

v.

FEDERAL BUREAU OF PRISONS,
ANTHONY OSAGIE,
DAVID ALLRED,
CHRISTOPHER WILSON,
LISA GREGORY,
DAVID BERKEBILE, and
D. HALL,

Defendants.

ORDER

Plaintiff, Jeremy Pinson, is in the custody of the United States Bureau of Prisons and currently is incarcerated at ADX in Florence, Colorado. Mr. Pinson, acting *pro se*, initiated this action by filing a Prisoner Complaint challenging the conditions of his incarceration. The Court construed the Complaint liberally and directed Mr. Pinson to show cause why he should not be denied leave to proceed pursuant to 28 U.S.C. § 1915 because he is subject to filing restrictions under § 1915(g). On April 8, 2013, Mr. Pinson filed a Response and an Amended Complaint.

In the Order to Show Cause, Magistrate Judge Boyd N. Boland instructed Mr. Pinson that he must state with specificity the injuries he has incurred due to denial of a CPAP (continuous positive airway pressure) machine and how named Defendants

participated in the alleged denial. In the Amended Complaint, Mr. Pinson asserts that a Polysomnography, or sleep study, to determine his need for a CPAP test was ordered in 2011, but he has not had the test and his symptoms have worsened. Mr. Pinson further asserts he has not seen a cardiologist to determine the source of his cardiac issues, there is a systemic backlog for medical tests, there are no daily sick-call rounds where he is housed, and prison staff have used oleoresin capsicum gas in thirteen cell extractions during 2012 and 2013 that caused an asthma attack and left him unconscious. Mr. Pinson also contends that he suffered sore throat, chest pains, asthma attacks, and congestion of the lungs and sinuses several times since 2011 but did not receive medical care.

Mr. Pinson fails to comply with the Court's March 28 Order and state the date the specific acts took place and name the specific individuals responsible for the alleged acts. Mr. Pinson's requests for medical tests are vague and conclusory and do not state imminent danger of serious physical injury.

Nonetheless, the Court has a continuing concern for the safety of prisoners housed within this jurisdiction. Mr. Pinson's claim that he has asthma but has not received medical treatment and has on more than one occasion been exposed to a gas that triggered an asthma attack and left him unconscious raises concern. The Court will seek a statement from the Warden at the prison facility, Defendant David Berkebile, where Mr. Pinson currently is housed, addressing the current provisions being made to assure Mr. Pinson is not in immediate danger of serious physical harm regarding his medical treatment for his respiratory concerns. No reply to the statement or other motions or pleadings will be allowed by Mr. Pinson in this action.

Mr. Pinson is instructed that this inquiry, along with the inquiry ordered in Case No. 12-cv-02802-BNB, will be the last time the Court makes a special effort to address Mr. Pinson's alleged claims of imminent danger of serious physical harm if he fails to state specific acts and dates to support his vague claims. The Court also will consider invoking additional filing restrictions against Mr. Pinson if he fails to comply with Court orders in the future. Accordingly, it is

ORDERED that the Clerk of the Court initiate service of process on Defendant David Berkebile in this case for the limited purpose of seeking a statement by Mr. Berkebile as set forth above. It is

FURTHER ORDERED that Mr. Berkebile or his designee is instructed to provide a statement to the Court within ten days of the date of this Order. It is

FURTHER ORDERED that Mr. Pinson is restricted from filing any further pleadings or motions in this action, including a reply to the statement provided by the Warden or appropriate prison staff.

DATED April 17, 2013, at Denver, Colorado.

BY THE COURT:

s/ Boyd N. Boland
United States Magistrate Judge