

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Magistrate Judge Boyd N. Boland

Civil Action No 13-cv-01574-RBJ-BNB

NATHANIEL JAMES HARVEY, III,

Plaintiffs,

v.

CATHERINE SEGURA, in her official and individual capacity and
LT. BRENT LANG, (Unit 4), in his official capacity,

Defendants.

ORDER

Before me is the **Plaintiff's Motion Requesting Exhibits and Attachments From Initial Complaint and Third Amended Complaint** [Doc. #63, filed 02/06/2014] (the "Motion"). The Motion is DENIED.

The plaintiff requests "exhibits and attachments from Plaintiff's initial Complaint and Third Amended Complaint for the purposes of establishing" his response to the defendants' motion to dismiss. It is unclear from the Motion whether the plaintiff is requesting that the court send him the exhibits or whether he is attempting to incorporate them into his response by reference. Either way, the motion is denied.

Written documents attached to the operative complaint are exhibits and are considered part of the complaint for consideration in a Rule 12(b)(6) dismissal. Hall v. Bellmon, 935 F.2d 1106, 1112 (10th Cir. 1991). Therefore, the documents attached to the Third Amended Complaint are considered part of the Third Amended Complaint for purposes of the defendants' motion to dismiss. Moreover, to the extent the plaintiff wants to submit evidence in support of

his response to the defendants' motion to dismiss, a motion to dismiss poses a legal challenge to the allegations of a complaint; it is not an evidentiary challenge. Finally, the plaintiff is responsible for keeping copies of his exhibits and pleadings. If any particular exhibit is necessary to support a brief, the exhibit must be attached to the brief and cited with specificity.

IT IS ORDERED that Plaintiff's Motion Requesting Exhibits and Attachments From Initial Complaint and Third Amended Complaint [Doc. #63] is DENIED.

Dated February 18, 2014.

BY THE COURT:

s/ Boyd N. Boland
United States Magistrate Judge