

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

Civil Action No. 13-cv-01701-PAB-BNB

CHRISTOPHER JAMES WILDER,

Plaintiff,

v.

CHARLES DANIELS (Warden), and
BORGES, (Lieutenant),

Defendants.

ORDER

This matter arises on the plaintiff's **Motion for Leave to Correct Complaint with Incorporated Response to Show Cause** [Doc. #58, filed 05/30/2014] (the "Motion"). The Motion is GRANTED.

The plaintiff filed his Fourth Amended Prisoner Complaint on March 28, 2014 [Doc. #47] (the "Complaint"). He names as a defendant "Borges, Lieutenant" and lists that defendant's address as USP Florence. On April 2, 2014, the court sent a request for waiver of service to the defendants at the Colorado Consolidated Legal Center at the Federal Bureau of Prisons ("BOP") [Doc. #48]. On April 11, 2014, BOP Attorney Advisor Kaitlin Turner filed a document stating that service is not waived for defendant Borges because she is "unable to identify a current or former BOP lieutenant by this name."

Consequently, I ordered the plaintiff to show cause on or before May 19, 2014, why the Complaint should not be dismissed as against defendant Borges for failure to prosecute. See D.C.COLO.LCivR 41.1. I cautioned the plaintiff that in the event no such showing was made, I

would enter a recommendation that the action be dismissed, without prejudice, against defendant Borges for failure to prosecute. The plaintiff did not respond to the show cause order. Accordingly, I entered a recommendation that Complaint be dismissed without prejudice as against defendant Borges for failure to prosecute.

On May 30, 2014, the plaintiff filed his Motion to correct defendant Borges' last name to Borja. He states that the Motion is also an "incorporated response" to the show cause order. The plaintiff does not explain why the response is untimely.

IT IS ORDERED:

(1) The plaintiff's Motion for Leave to Correct Complaint with Incorporated Response to Show Cause [Doc. #58] is GRANTED;

(2) The Complaint is amended to correct the last name of defendant Lieutenant Borges to Borja;

(3) The Clerk of the Court shall (a) amend the docket sheet to reflect the correct spelling of defendant Borja's last name, and (b) serve defendant Borja with a request for waiver of service;

(4) The Recommendation to dismiss defendant Borja [Doc. #57] is WITHDRAWN; and

(4) In the future, the plaintiff shall comply with orders of this court. Failure to comply may result in sanctions, including dismissal of this case.

Dated June 16, 2014.

BY THE COURT:

s/ Boyd N. Boland
United States Magistrate Judge