

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 13-cv-01964-BNB

TROY LEE SCHNEIDER,

Plaintiff,

v.

COLORADO PUBLIC DEFENDERS OFFICE, and
NELISSA MELFIELD, Public Defender,

Defendants.

ORDER OVERRULING OBJECTION

This matter is before the Court on the document titled "Motion for Leave to Proceed on Appeal Without Prepayment of Costs or Fees (non-PLRA)" (ECF No. 11) filed *pro se* on August 13, 2013, by Plaintiff, Troy Lee Schneider. Mr. Schneider appears to object to Magistrate Judge Boyd N. Boland's minute order of August 5, 2013 (ECF No. 7) denying Plaintiff's motion for appointment of counsel (ECF No. 6) as premature. Mr. Schneider currently is incarcerated at the Boulder County Jail.

The Court must construe liberally the August 13 motion because Mr. Schneider is not represented by an attorney. See *Haines v. Kerner*, 404 U.S. 519, 520-21 (1972); *Hall v. Bellmon*, 935 F.2d 1106, 1110 (10th Cir. 1991). However, the Court should not be an advocate for a *pro se* litigant. See *Hall*, 935 F.2d at 1110. For the reasons stated below, the August 13 motion purportedly appealing from a nonfinal minute order will be treated as an objection, and the objection will be overruled.

Pursuant to 28 U.S.C. § 636(b)(1)(A) a judge may reconsider any pretrial matter

designated to a magistrate judge to hear and determine where it has been shown that the magistrate judge's order is clearly erroneous or contrary to law. The Court has reviewed the file and finds that Magistrate Judge Boland's August 5 minute order denying as premature Mr. Schneider's motion for appointment of counsel is not clearly erroneous or contrary to law. Therefore, the objection will be overruled.

Accordingly, it is

ORDERED that the document titled "Motion for Leave to Proceed on Appeal Without Prepayment of Costs or Fees (non-PLRA)" (ECF No. 11) filed *pro se* on August 13, 2013, by Plaintiff, Troy Lee Schneider, and which the Court has construed liberally as an objection pursuant to 28 U.S.C. § 636(b)(1)(A), is overruled.

DATED at Denver, Colorado, this 21st day of August, 2013.

BY THE COURT:

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