

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 13-cv-02001-BNB

ERIC ADAMS,

Applicant,

v.

D. Berkebile, Warden,

Respondent.

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ORDER OVERRULING OBJECTION

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This matter at issue is the “Motion for Judgment on the Pleadings or for Summary Judgment” that Mr. Adams, a federal prisoner housed in the State of Colorado, filed with the Court on October 3, 2013. Mr. Adams objects to both the September 17 and July 31, 2013 Orders entered by Magistrate Judge Boyd N. Boland. Specifically, Mr. Adams challenges Magistrate Judge Boland’s findings that his claims challenge the conditions of his confinement and more properly are raised pursuant to 28 U.S.C. § 1331 and to *Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics*, 403 U.S. 388 (1971), rather than pursuant to 28 U.S.C. § 2241.

The Court construes the Motion liberally as an Objection filed pursuant to 28 U.S.C. § 636(b)(1)(A). Under § 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.

After review of Mr. Adams’ Application, I find no basis for his arguments. Magistrate Judge Boland’s July 31 and September 17 Orders are neither clearly

erroneous nor contrary to law. Mr. Adams' liberally construed Objection, therefore, will be overruled. Mr. Adams is instructed to comply with the July 31 and September 17 Orders or the action will be dismissed for failure to prosecute. Accordingly, it is

ORDERED that Mr. Adams' Motion for Judgment on the Pleadings or for Summary Judgment, ECF No. 5, filed on October 3, 2013, is construed liberally as an Objection filed pursuant to 28 U.S.C. § 636(b)(1)(A) and is overruled. It is

FURTHER ORDERED that Mr. Adams has **twenty-one days from the date of this Order** to comply with the July 31 and September 17, 2013 Orders. It is

FURTHER ORDERED that if Mr. Adams fails to comply with the July 31 and September 17, 2013 Orders, as directed, the action will be dismissed without further notice.

DATED at Denver, Colorado, this 9<sup>th</sup> day of October, 2013.

BY THE COURT:

s/Christne M. Arguello  
CHRISTINE M. ARGUELLO  
United States District Judge, for  
LEWIS T. BABCOCK, Senior Judge  
United States District Court