

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge Philip A. Brimmer

Civil Action No. 13-cv-02165-PAB-MEH

DENNIS SLADEK,

Plaintiff,

v.

TOWN OF PALMER LAKE, COLORADO,

Defendant.

ORDER

This matter comes before the Court on Defendant Town of Palmer Lake, Colorado's Unopposed Motion for Clarification of Court's Order of February 18, 2014, and Final Judgment of February 20, 2014 [Docket No. 73], wherein the Town of Palmer Lake, Colorado seeks clarification regarding the Court's Order of February 18, 2014.

There was, in fact, a typographical error in the Court's Order. The words "as moot" were deleted from the end of paragraph three on the second page. The Court dismissed the claims of plaintiff on the first basis identified in the Recommendation of United Magistrate Judge Michael E. Hegarty [Docket No. 69] and the first basis identified in the Town of Palmer Lake's motion to dismiss [Docket No. 41], namely, that plaintiff's claims were rendered moot by the repeal of Palmer Lake's ordinance. As a result, the Court lacks subject matter jurisdiction over plaintiff's claims and dismissal without prejudice is appropriate. See *Brereton v. Bountiful City Corp.*, 434 F.3d 1213, 1216 (10th Cir. 2006) ("where the district court dismisses an action for lack of

jurisdiction, . . . the dismissal must be without prejudice”). Given that it lacked subject matter jurisdiction, the Court did not rule on the alternative bases identified in the Recommendation. The fact that the title of plaintiff’s motion contains the phrase “with prejudice” is irrelevant. As noted above, plaintiff’s primary argument was lack of subject matter jurisdiction.

Wherefore, it is

ORDERED that Defendant Town of Palmer Lake, Colorado’s Unopposed Motion for Clarification of Court’s Order of February 18, 2014, and Final Judgment of February 20, 2014 [Docket No. 73] is granted to the extent that the Court has provided clarification of its February 21, 2014 Order. The Court will issue an amended Order.

DATED February 27, 2014.

BY THE COURT:

s/Philip A. Brimmer
PHILIP A. BRIMMER
United States District Judge