

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 13-cv-02191-BNB

COREY BURGESS,

Plaintiff,

v.

CHARLES A. DANIELS (individual/official),
PAUL M. LAIRD, (individual/official),
CHARLES E. SAMUELS, (individual/official),
MATT THOMPSON, (individual/official),
C.O. EXINA (individual/official),
PAUL A. KASTNER (individual/official),
J. A. KELLER (individual/official),
ERIC HOLDER (individual/official), and
U.S. D.O.J./F.B.O.P. (individual/official),

Defendants.

ORDER OVERRULING OBJECTION

This matter is before the Court on the combination motion titled "Motion for Change of Venue and Objection to Magistrate [Judge]'s IFP Order" (ECF No. 6) filed *pro se* on August 27, 2013, by Plaintiff, Corey Burgess. Mr. Burgess is a prisoner in the custody of the Federal Bureau of Prisons who currently is incarcerated at the United States Penitentiary, High Security, in Florence, Colorado.

Mr. Burgess objects to Magistrate Judge Boyd N. Boland's order of August 19, 2013 (ECF No. 4), granting his Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 (ECF No. 3) because he contends this Court has no jurisdiction over the subject matter of the complaint he filed in this Court. The motion for

change of venue will be addressed in a separate order.

The Court must construe liberally the August 27 motion because Mr. Burgess 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 27 motion, to the extent it objects to the order granting Mr. Burgess leave to proceed pursuant to § 1915, 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 19 order granting Plaintiff leave to proceed pursuant to § 1915 is not clearly erroneous or contrary to law. Therefore, the objection will be overruled.

Accordingly, it is

ORDERED that the motion titled "Motion for Change of Venue and Objection to Magistrate [Judge]'s IFP Order" (ECF No. 6) filed *pro se* on August 27, 2013, by Plaintiff, Corey Burgess, 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 3rd day of September, 2013.

BY THE COURT:

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