

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 13-cv-02676-CMA-MJW

DAWANE ARTHUR MALLET,

Plaintiff(s),

v.

DAVID OWEN LAW, Correctional Officer,  
A. BALSICK, Correctional Officer,  
N. LEE, Correctional Officer,  
G. SANDUSKY, Correctional Officer, and  
RUSSELL KRIST, ADX Captain,

Defendant(s).

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MINUTE ORDER

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Entered by Magistrate Judge Michael J. Watanabe

It is hereby **ORDERED** that substantially for the reasons stated in the Response (Docket No. 33), the plaintiff's Motion to Add Parties (Docket No. 30) is granted in part and denied in part as follows.

The motion is granted to the extent that the claims against unserved defendants Russell Krist and N. Lee are dismissed, and defendants Krist and Lee shall be removed from the caption.

The motion is denied to the extent that plaintiff shall not be permitted to add two defendants. Plaintiff seeks to add a new claim against two new defendants concerning a sexual assault upon plaintiff that allegedly occurred on January 30, 2014. This proposed claim is not brought against any of the remaining defendants. Furthermore, it does not arise out of the same occurrences underlying the claims remaining in this action, which concern allegations that plaintiff was denied meals at various times. In sum, plaintiff seeks to add two new defendants regarding an unrelated incident occurring after this action was commenced, which will not be permitted. Such a claim is more properly raised in a separate action after plaintiff exhausts his administrative remedies.

Based upon the above, it is further **ORDERED** that the Show Cause Hearing set on April 14, 2014, at 9:30 a.m., which concerned plaintiff's failure to serve defendants Lee and Krist and failure to prosecute his claims against them, is **VACATED**. The

Scheduling Conference, however, remains set on April 14, 2014, at 9:30 a.m.

Date: March 11, 2014

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