

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 13-cv-03070-BNB

DANIEL ACOSTA,

Applicant,

v.

CHARLES DANIELS, Warden,

Respondent.

ORDER OVERRULING OBJECTION

The matter at issue is the “Objection to Magistrate Judge Boland Minute Order,” ECF No. 16, that Applicant, a federal state prisoner, filed with the Court on January 16, 2014. Applicant objects to the January 8, 2014 Minute Order entered by Magistrate Judge Boyd N. Boland. Specifically, Applicant asserts that his due process rights were violated when Magistrate Judge Boland allowed Respondent to file his Response out of time.

The Court construes the 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 the January 8, 2014 Minute Order, I find no basis for Applicant’s arguments. The Minute Order neither is clearly erroneous nor contrary to law. The Order does not violate Applicant’s due process rights. The Respondent’s request for an

extension was timely and the reason sufficient to merit an extension. Applicant's Objection to the two-day extension approaches being malicious. Applicant is more interested in opposing Court orders than proceeding with his claims. The Objection will be overruled. Accordingly, it is

ORDERED that Applicant's Objection, ECF No. 16, filed on January 16, 2014, is construed as filed pursuant to 28 U.S.C. § 636(b)(1)(A) and is overruled. It is

FURTHER ORDERED that Applicant has twenty-one days from the filing of the Preliminary Response to file a Reply if he desires..

DATED at Denver, Colorado, this 23rd day of January, 2014.

BY THE COURT:

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