

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 14-cv-01059-MSK-MJW

NATHAN YBANEZ,

Plaintiff,

v.

BERNADETTE SCOTT, in her individual and official capacities as Lieutenant of the SCF Mail Room, and
UNKNOWN SCF MAIL ROOM EMPLOYEE "C. Mathis," in her individual capacity,

Defendants.

MINUTE ORDER

Entered by Magistrate Judge Michael J. Watanabe

It is hereby ORDERED that Plaintiff's Motion for Leave to Amend Pleadings (Docket No. 47) is DENIED WITHOUT PREJUDICE.

On October 14, 2014, the Court entered a report and recommendation, recommending that Defendant Mathis be dismissed from this case for lack of service and lack of prosecution. (Docket No. 41.) On October 22, 2014, Plaintiff filed an objection to that report and recommendation, under Federal Rule of Civil Procedure 72(b)(2). (Docket No. 49.) The Court notes that, to date, Plaintiff has still not filed any proof of service on Defendant Mathis, and that none of Plaintiff's filings set forth any affirmative steps taken by Plaintiff to effect service.

On October 16, 2014, Plaintiff filed a motion to amend his complaint. (Docket No. 47.) The sole purpose of the motion is to identify Defendant Mathis with greater specificity. The grounds for this motion are generally proper--but the matter will be entirely moot should Chief Judge Krieger adopt the report and recommendation dismissing Defendant Mathis from the case.

Thus, the Court denies the motion as currently premature. Should Chief Judge Krieger overrule the report and recommendation and grant Plaintiff additional time to serve Defendant Mathis, Plaintiff may re-file his motion for leave to amend the complaint.

Date: October 29, 2014
