

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Magistrate Judge Boyd N. Boland

Civil Action No. 14-cv-01062-BNB

TYRONE WALKER,

Plaintiff,

v.

JOHN W. HICKENLOOPER, in his Individual Capacity,
BILL RITTER JR., in his Individual Capacity,
TOM CLEMENTS, in his Individual and Official Capacities,
ARISTEDES W. ZAVARAS, in his Individual and Official Capacities,
RICK RAEMISCH, in his Individual and Official Capacities,
KEVIN MILYARD, in his Individual and Official Capacities,
JAMES FALK, in his Individual and Official Capacities,
JOHN CHAPDELAIN #10277, in his Individual and Official Capacities,
JAMIE SOUCIE #12620, in her Individual and Official Capacities,
MARSHAL GRIFFITH #14298, in his Individual and Official Capacities,
JULIE FULLER #10068, in her Individual and Official Capacities,
ASTRIA LOMBARD #14539, in her Individual and Official Capacities, and
JANE DOE, in her Individual and Official Capacities,

Defendants.

ORDER

This matter arises on the plaintiff's **Motion Requesting an Order Directing Defendants to Re-file & Re-Serve their Motion to Dismiss and Motion for Extension of Time** [Doc. #40, filed 8/27/2014]. The Motion is GRANTED IN PART and DENIED IN PART.

The plaintiff is incarcerated at the Sterling Correctional Facility ("SCF"). He states that he received the defendants' motion to dismiss but did not receive Exhibits A, B, and C to the motion. The plaintiff requests that the defendants be ordered to re-file the motion with the court

and “re-serve all interested parties, including the Plaintiff, with a complete copy of the Motion to Dismiss.” The plaintiff further requests an extension of time to respond to the motion to dismiss.

The defendants respond that they served on the plaintiff the motion to dismiss and Exhibits A, B, and C. On August 21, 2014, defense counsel was notified by an SCF officer that the plaintiff stated he did not receive Exhibits A, B, or C. On that same day, defense counsel mailed another copy of the exhibits via FedEx, and the exhibits were delivered to SCF on August 22, 2014.

The defendants have re-served Exhibits A, B, and C on the plaintiff. Therefore, his motion to re-serve the exhibits is moot. The motion to dismiss does not need to be re-filed with the court or re-served on any party. The plaintiff is granted until September 30, 2014, to respond to the motion to dismiss.

Finally, I note that the plaintiff accuses the defendants of being incompetent and makes immaterial and impertinent statements about the defendants and SCF staff. I will not tolerate immaterial and impertinent statements or *ad hominem* attacks against the defendants.

Accordingly,

IT IS ORDERED:

(1) The Motion [Doc. #40] is GRANTED to permit the plaintiff an extension to time until **September 30, 2014**, to respond to the defendants’ motion to dismiss;

(2) The motion is DENIED insofar as it seeks an order directing the defendants to re-file and re-serve their motion to dismiss; and

(3) The plaintiff shall cease filing papers containing immaterial and impertinent statements or *ad hominem* attacks against defendants. Failure to comply with this order may result in the imposition of sanctions, including dismissal of this case.

Dated September 4, 2014.

BY THE COURT:

s/ Boyd N. Boland
United States Magistrate Judge