

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 14-cv-02068-LTB

ANTOINE BRUCE,

Plaintiff,

v.

JOHN T. RATHMAN,
ALEJO BORRERO-HERNANDE,
LEE H. GREEN,
JOSE A. SANTANA,
DAVID A. BERKEBILE,
PAUL M. LAIRD,
HARRELL WATTS,
L. ROBINSON, and
S. CEDENO,

Defendants.

ORDER GRANTING MOTION FOR RECONSIDERATION

Plaintiff Antoine Bruce filed *pro se*, on December 31, 2014, a Motion for Reconsideration, ECF No. 27, in which he asks the Court to reconsider and vacate the Order of Dismissal and the Judgment entered in this action on November 14, 2015. The Court dismissed the instant action without prejudice because Applicant failed to comply with a court order within the time allowed. The Court must construe the request liberally because Applicant 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). For the reasons discussed below, the request will be construed as a Motion for Reconsideration filed pursuant to Rule 60(b) and granted.

Relief under Rule 60(b) is appropriate only in extraordinary circumstances. *See*

Massengale v. Oklahoma Bd. of Examiners in Optometry, 30 F.3d 1325, 1330 (10th Cir. 1994). Upon consideration of the Motion and the entire file, the Court finds that Plaintiff's request is questionable, but the Court will grant the Motion with the following stipulations.

On November 20, 2014, Plaintiff signed and dated a new complaint, Civil Action No. 14-cv-03232-BNB, for filing in this Court. This was within six days after this action was dismissed for failure to comply with the Court's September 8, 2014 Order to Amend. The new complaint, Civil Action No. 14-cv-03232-BNB, for the most part, addresses the same claims that Plaintiff has set forth in this Complaint, e.g., that he is mentally ill and is continually subjected to excessive force and placement in restraints for long periods of time.

Plaintiff, therefore, will be directed to file an Amended Complaint in this action that complies with the Court's September 8, 2014 Order, and to assert claims that are not repetitive of the claims he has asserted in Case No. 14-cv-03232-BNB.

Accordingly, it is

ORDERED that Applicant's Motion for Reconsideration, ECF No. 27, filed on December 31, 2014, is GRANTED. It is

FURTHER ORDERED that the Order of Dismissal and the Judgment, both filed on November 14, 2014, are vacated. It is

FURTHER ORDERED that the Clerk of the Court is directed to reinstate and return this action to the Pro Se Docket. It is

FURTHER ORDERED that Plaintiff is to comply with the Court's September 8, 2014 Order and with this Order within thirty days of the date of this Order. It is

FURTHER ORDERED that if Plaintiff fails to comply within the time, as directed in this Order, the Complaint and action will be dismissed without further notice. It is

FURTHER ORDERED that the Clerk of the Court is directed to send to Plaintiff two copies of the Court-approved Prisoner Complaint form for use in filing the Amended Complaint in this action.

DATED at Denver, Colorado, this 28th day of January, 2015.

BY THE COURT:

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