

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 15-cv-00074-REB-NYW

DERIC VAN FLEET,

Plaintiff,

v.

SGT. TUPPER,

Defendant.

ORDER WITHDRAWING RECOMMENDATION

Magistrate Judge Nina Y. Wang

This civil action is before the court *sua sponte*. On July 13, 2015, this court issued a Recommendation that this case be dismissed without prejudice for lack of prosecution, failure to comply with an order of the court, and failure to comply with a Local Rule of this District. [#28]. Specifically, Plaintiff Deric Van Fleet, who is proceeding *pro se*, had failed to update his mailing address with the court in contravention of D.C.COLO.LAttyR 5(c) and a court Order dated April 30, 2015 [#21], and had failed to respond to an Order to Show Cause dated June 30, 2015 as to why this case should not be dismissed for lack of prosecution and failure to comply with a court order. This Recommendation was returned to the court on July 17, 2015 as undeliverable to the address provided. [#30]. The Recommendation is pending before the Honorable Robert E. Blackburn.

At the time Plaintiff initiated this action, he was in the custody of the Colorado Department of Corrections and incarcerated at Sterling Correctional Facility in Sterling,

Colorado. Plaintiff was paroled during the pendency of this action and failed to provide a new address to the court. *See* [#20]. On August 3, 2015, Plaintiff submitted a Letter with an updated mailing address. [#31]. In the Letter, Plaintiff represents that his case manager was “supposed to mail me my legal documents and I haven’t received any for the past 4 months,” asks for the status of this case, and expresses his interest in pursuing the sole remaining claim in this matter. [*Id.*; *see also* #17].

This court interprets a *pro se* litigant’s filings liberally. *See Hall v. Bellmon*, Accordingly, this court interprets Plaintiff’s Letter [#31] as a response to the Order to Show Cause [#22] that Plaintiff was relying upon his case manager to forward his legal documents, that he has not received any legal documents, and that he wishes to continue to pursue the sole remaining claim in this matter.

Accordingly, IT IS ORDERED that:

- (1) The court’s Order to Show Cause [#22] is DISCHARGED; and
- (2) The Recommendation to Dismiss [#28] is hereby **WITHDRAWN**.

Plaintiff is, however, specifically advised that it is his obligation to keep the court apprised of his contact address, and failure to do so may lead to sanctions, up to an including a Recommendation that this action should be dismissed.

DATED: December 4, 2015

BY THE COURT:

s/Nina Y. Wang
United States Magistrate Judge