

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 15-cv-1481-GPG

**LAZARO AGUILAR**, Inmate No. 1480278,

Plaintiff,

v.

**COLORADO STATE PENITENTIARY**; and  
**SAINT THOMAS MOORE HOSPITAL**,

Defendants.

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**ORDER**

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Plaintiff Lazaro Aguilar is in the custody of the Colorado Department of Corrections and currently is incarcerated at the Canon City Correctional Facility in Canon City, Colorado. Plaintiff initiated this action on July 13, 2015 by filing *pro se* a Prisoner Complaint. He has been granted leave to proceed *in forma pauperis* under 28 U.S.C. § 1915 in this action. In his Complaint, he is asking the Court to order his medical providers to place him back on psychiatric medication. He raises further claims of medical malpractice concerning diet, headache and dental issues.

On September 9, 2015, Defendant Saint Thomas Moore Hospital (STM) filed a Motion to Dismiss (ECF No. 8) claiming that the complaint should be dismissed against it for failure to state a claim upon which relief may be granted.

In civil rights cases, a District Court must give a plaintiff the opportunity to amend a deficient complaint - regardless of whether the plaintiff requests to do so - when dismissing a case for failure to state a claim, unless a curative amendment would be inequitable, futile, or untimely. Accordingly, it is

**ORDERED** that Plaintiff is given leave to file an amended complaint in this action no later than October 10, 2015. The amended complaint must include all defendants and all causes of action and must set forth clearly-identified causes of action that both identify Plaintiff's legal theories and facts suggestive of the proscribed conduct alleged in one stand-alone document without reference to any other document filed in this matter. See Fed. R. Civ. P. 8. Plaintiff is strictly cautioned that the inclusion of separate, unrelated claims from those set forth in his prior complaint will be considered a failure to comply with an order of Court and will result in dismissal of the amended complaint. It is

**FURTHER ORDERED** that if Plaintiff does not desire to file an amended complaint, he shall file a **response in opposition** to Defendant's Motion to Dismiss, including any appropriate exhibits or attachments, no later than October 10, 2015. The filing of a response instead of an amended complaint will serve as notice to the District Court that Plaintiff is asserting his intent to stand on the original Complaint filed in this action. It is

**FURTHER ORDERED** that should Plaintiff fail to comply with this order, the Motion to Dismiss may be decided without the benefit of Plaintiff's response and the Court will consider dismissal of this action for failure to prosecute. It is

**FURTHER ORDERED** that, in the event that Plaintiff elects to file a response to the pending motion, Defendants shall file a reply brief on or before October 30, 2015, which should address any issues raised by Plaintiff in his response that are not addressed in Defendant's pending motion. Should Defendant file a reply brief, Plaintiff will have thirty days in which to file a response brief if he so desires. It is

**FURTHER ORDERED** that this Order does not supercede the Court's **SECOND ORDER DIRECTING PLAINTIFF TO SHOW CAUSE** (ECF No. 7). If Plaintiff fails to

comply with that Order, the Complaint and this action will be dismissed without prejudice and without further notice for failure to comply with this Court's Order. It is

**FURTHER ORDERED** that **NO EXTENSIONS WILL BE GRANTED WITHOUT GOOD CAUSE**. It is

**FURTHER ORDERED** that if Plaintiff fails to comply with this Order, the Complaint and this action will be dismissed without prejudice and without further notice for failure to comply with this Court's Order.

DATED September 10, 2015, at Denver, Colorado.

BY THE COURT:

/s Gordon P. Gallagher  
Gordon P. Gallagher  
United States Magistrate Judge

