

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

FRANCISCO ORNELAS,)	8:13CV118
)	
Plaintiff,)	
)	
v.)	MEMORANDUM
)	AND ORDER
ROBERT HOUSTON, et al.,)	
)	
Defendants.)	

This matter is before the court on Defendants’ Motion for Reconsideration. (Filing No. [32](#).) On October 22, 2013, Defendants moved to dismiss this action against Defendants in their individual capacities for the reason that Plaintiff had failed to state a claim upon which relief may be granted. (Filing No. [29](#).) However, Defendants neglected to file a separate brief in support of the Motion. (*See* Filing No. [30](#).) On March 18, 2014, the court denied Defendants’ Motion to Dismiss. (Filing No. [31](#).) It did so, not because of Defendants’ error, but because the court had already determined in its initial review of Plaintiff’s Complaint that Plaintiff had stated a claim upon which relief may be granted against Defendants. (*See* Filing No. [16](#) and Filing No. [31](#).)

In Defendants’ Motion for Reconsideration, Defendants ask the court to reconsider its order denying their Motion to Dismiss. (Filing No. [32](#).) In support of the Motion for Reconsideration, Defendants have filed the Brief they had prepared and intended to file in support of their original Motion to Dismiss. (*See* Filing No. [32](#) and Filing No. [33](#).)

The court has carefully reviewed the record in this matter and sees no reason to reconsider its previous order denying Defendants’ Motion to Dismiss. Plaintiff alleges in his Complaint, and in particular the 20 pages of materials attached to his Complaint, that he had serious medical needs and Defendants had knowledge of his

serious medical needs. (Filing No. [1](#).) Accordingly, Plaintiff's Eighth Amendment medical claims survive Defendants' Motion to Dismiss, as do his state law claims.

IT IS THEREFORE ORDERED that:

1. Defendants' Motion for Reconsideration (Filing No. [32](#)) is denied.
2. In accordance with [Federal Rule of Civil Procedure 12\(a\)\(4\)\(A\)](#), Defendants shall file their answer no later than 14 days from the date of this Memorandum and Order.
3. The clerk's office is directed to set the following pro se case management deadline: **July 11, 2014**: Check for answer from Defendants.

DATED this 24th day of June, 2014.

BY THE COURT:

s/ Joseph F. Bataillon
United States District Judge

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