
IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

MANUEL J. DELGADO,

Plaintiff,

v.

**SALT LAKE PUBLIC UTILITIES,
SALT LAKE CITY CORPORATION,
HOUSING AUTHORITY OF SALT
LAKE CITY, and DOLORES
ALMEADIA,**

Defendants.

**ORDER AFFIRMING
REPORT & RECOMMENDATION**

Case No. 2:10CV575DAK

This case was assigned to United States District Court Judge Dale A. Kimball, who then referred it to United States Magistrate Judge David Nuffer under 28 U.S.C. § 636(b)(1)(B). Salt Lake City Corporation filed a Motion for More Definite Statement. On November 8, 2010, Magistrate Judge Nuffer granted the motion and ordered Plaintiff to file a statement clearly setting forth each defendant and their connection to the allegations in the complaint. Due to difficulties with serving Plaintiff with the Order, the court granted Plaintiff until December 8, 2010 to file a more definite statement. Plaintiff did not do so.

Accordingly, on December 27, 2010, Magistrate Judge Nuffer issued a Memorandum Decision and Report and Recommendation concluding that Plaintiff's failure to file a more definite statement was grounds for striking Plaintiff's complaint. Magistrate Judge Nuffer also concluded that the complaint should be dismissed under 28 U.S.C. § 1915(e)(2) for failure to

state a claim for which the court may grant relief. Given Plaintiff's pro se status, however, Magistrate Judge Nuffer recommended that Plaintiff be granted the opportunity to amend his Complaint within twenty-one days of this court's order on the Report and Recommendation.

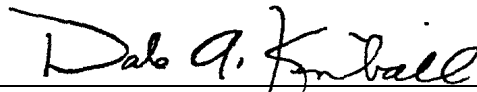
The Report and Recommendation notified the parties that they had fourteen days to file written objections to the Report and Recommendation. On January 11, 2011, this court received a postcard from Plaintiff, stating: "If the court wants me to send more papers I can't. I gave it to the Defenders already." Because Plaintiff has no legal representation in this civil case, the court contacted Plaintiff's current legal counsel in his criminal case, Ms. Viviana Ramirez, Esq., Assistant Federal Defender. The court inquired as to whether she had any papers in her possession regarding Plaintiff's civil case. Ms. Ramirez stated that she did not but that she would talk to Plaintiff about it. After speaking with Plaintiff, Ms. Ramirez referred the court to another defense attorney who has done work for Plaintiff, Mr. Danny Quintana, Esq. Mr. Quintana represented to the court that he did not have any papers relating to this civil case. Plaintiff, therefore, has failed to comply with the court's order to file a more definite statement and has failed to file objections to Magistrate Judge Nuffer's Report and Recommendation.

The court has reviewed the file *de novo*. The court approves and adopts the Magistrate Judge's Report and Recommendation in its entirety. Magistrate Judge Nuffer was correct to grant Salt Lake City's motion for more definite statement. Plaintiff's repeated failure to file a more definite statement is grounds for striking the complaint. In addition, Plaintiff's present complaint fails to state a claim upon which this court may grant relief. Although the court has concerns that granting Plaintiff leave to amend is futile, the court affirms Magistrate Judge Nuffer's generous recommendation that Plaintiff be given another opportunity to amend his complaint. Plaintiff shall have twenty-one days from the date of this Order to file an amended complaint. Given

Plaintiff's failure to follow this court's prior orders, the court will not grant any extensions. If an amended complaint is not filed within twenty-one days of the date of this order, Plaintiff's complaint will be dismissed.

DATED this 19th day of January, 2011.

BY THE COURT:

A handwritten signature in black ink that reads "Dale A. Kimball". The signature is written in a cursive style and is positioned above a horizontal line.

DALE A. KIMBALL

United States District Judge