

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

Civil Action No. 07-cv-01297-EWN-KLM

MALACHI Z. YORK, also known as DWIGHT YORK,

Plaintiff,

v.

FEDERAL BUREAU OF PRISONS,

Defendant.

JOINT MOTION TO VACATE AND RESET DISPOSITIVE MOTION DEADLINE

Plaintiff Malachi Z. York, Consul General Diplomat D/P #003828-04 of the Republic of Liberia, West Africa Citizenship, misnomer Dwight D. York (Inmate #17911-054) [hereinafter "Plaintiff"], through his undersigned counsel, and Defendant the Federal Bureau of Prisons ("BOP"), through its undersigned counsel, hereby jointly move to vacate the dispositive motion deadline set for April 24, 2008 and reset it for September 2, 2008. In support of this motion, the parties state as follows:

1. Plaintiff filed a first Prisoner Complaint on June 20, 2007. (Doc. 1.) To correct deficiencies in his first Complaint, the Court ordered Plaintiff to file an Amended Prisoner Complaint by August 6, 2007. See Doc. 5.
2. In the following months, Plaintiff requested and received multiple extensions of time to file an amended complaint. See Doc. 7 (Aug. 6, 2007, motion for extension of time); Doc. 8 (order granting motion); Doc. 10 (Sept. 10, 2007, motion for extension of time); Doc. 12 (order granting motion); Doc. 17 (Nov. 5, 2007, motion for expedited discovery and extension of time); Doc. 19 (order granting motion).

3. On October 8, 2007, Plaintiff filed a motion for expedited discovery. (Doc. 14.) On November 5, 2007, Plaintiff filed a second motion for expedited discovery and an extension of time to file the amended complaint. (Doc. 17.)
4. On November 8, 2007, the Court granted Plaintiff's motion for expedited discovery, ordering that Defendant produce "all medical and disciplinary documents in their possession that relate to Plaintiff from May 8, 2002, through the present date" by November 23, 2007. (Doc. 19.) The Court also granted Plaintiff's motion for an extension of time, allowing Plaintiff until December 24, 2007 to file an amended complaint. Id.
5. On November 21, 2007, Defendant provided Plaintiff's counsel with the documents responsive to the Court's November 8, 2007 Order.
6. Plaintiff filed an Amended Complaint on December 24, 2007. (Doc. 24.)
7. Defendant filed a Motion to Dismiss the Amended Complaint on February 22, 2008 (Doc. 35).
8. The parties attended a Scheduling Conference on February 27, 2008. In the Scheduling Order, the parties indicated that they would file a joint motion to vacate and reset the dispositive motion deadline. (Doc. 38 at 8 n.1, 11.) At the Scheduling Conference, Magistrate Judge Mix advised that she could not change the dispositive motion deadline, but that a motion to the Court would be required. Id. at 8.
9. The parties agree that more discovery is needed in this case, including the possibility of multiple expert depositions, and will require additional time to conduct such discovery. For example, the parties cannot conduct written discovery, take fact depositions, prepare

expert reports, and take expert depositions within two months. At the Scheduling Conference, the Court set August 1, 2008 as the discovery cut-off. Id. This is one month before the parties' proposed Dispositive Motion Deadline.

10. Moreover, at the Scheduling Conference, the Court set April 12, 2008 as the deadline for amendment of the complaint and joinder of parties. Id. Plaintiff has indicated a desire to file a Second Amended Complaint and to add a claim for damages against newly-named Defendants in their individual capacities. See id. at 5-6. If Plaintiff files this Second Amended Complaint on April 12, 2008, it will be nearly impossible for the parties to file meaningful dispositive motions with the Court by April 24, 2008.

WHEREFORE, the parties respectfully request that the dispositive motion deadline be vacated and reset for September 2, 2008. A proposed order is attached.

Respectfully submitted this 4th day of March, 2008.

s/ Leta R. Holden
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CERTIFICATE OF SERVICE

I hereby certify that on this 4th day of March, 2008, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following e-mail addresses:

Leta Holden
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Counsel for Plaintiff

I also hereby certify that on this 4th day of March, 2008, I have mailed or served the foregoing document to the following non-CM/ECF participant(s) in the manner (mail, e-mail, etc.) indicated by the nonparticipant's name:

None

s/ Marcy E. Cook
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