

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

JIMMY KINSLOW,

Plaintiff,

v.

No. CIV-07-1164 MV/RLP

NEW MEXICO CORRECTIONS
DEPARTMENT, *et al.*,

Defendants.

**MOTION FOR WITHDRAWAL OF
PLAINTIFF'S MOTION FOR RELIEF (Doc. 84)**

Pursuant to D.N.M.LR-Civ. 7.7, plaintiff Jimmy Kinslow, through counsel, moves for permission to withdraw from consideration by this Court his *Motion For Relief Pursuant To Rule 60 Of The Federal Rules Of Civil Procedure* (Doc. 84). In support, plaintiff states that he filed his *Motion* without the involvement of his appointed *pro bono* legal counsel, the parties have been and are attempting to resolve the matters raised in plaintiff's *Motion* without court involvement, and plaintiff will raise those matters in court if and only if the parties are unable to informally resolve those matters.

In accordance with D.N.M.LR-Civ. 7.7, undersigned counsel sought the concurrence of defense counsel. Defense counsel, Carlos Elizondo, Esq., was unable to take a position on plaintiff's withdrawal request at that time, such that it is presently unknown whether this motion is or is not opposed. Due to the difficulty of conferring with plaintiff, who is incarcerated in Florida, undersigned counsel has filed this time-sensitive request as promptly as possible.

For all of the foregoing reasons, plaintiff respectfully requests this Court for permission to withdraw his *Motion*. Alternatively, if this withdrawal request is denied, plaintiff's counsel

respectfully requests a 10-day extension within which to file objections to Magistrate Judge Puglisi's Fourth Report and Recommendation (Doc. 85), if any. Pursuant to that extension, the due date for plaintiff's objections would be extended from Monday, January 25, 2010 to Thursday, February 4, 2010.

Respectfully,

HOLLAND & HART LLP

By /s/ Larry J. Montañó

Larry J. Montañó

Robert J. Sutphin, Jr.

Kristina Martinez

110 N. Guadalupe, Suite 1

Post Office Box 2208

Santa Fe, New Mexico 87501

TEL: (505) 954-7291

FAX: (505) 983-6043

ATTORNEYS FOR PLAINTIFF JIMMY KINSLOW

CERTIFICATE OF SERVICE

I certify that on January 21, 2010, I filed the foregoing electronically through the CM/ECF system, which caused the following parties or counsel of record to be served:

Carlos Elizondo, Deputy General Counsel
Office of the General Counsel
N.M. Department of Corrections
Post Office Box 27116
Santa Fe, New Mexico 87502-0116
TEL: (505) 827-8691
FAX: (505) 827-8685
carlos.elizondo@state.nm.us

~ and ~

Luis Robles
Terri S. Beach
Robles, Rael & Anaya, P.C.
500 Marquette Ave. NW, Suite 700
Albuquerque, New Mexico 87102
TEL: (505) 242-2228
FAX: (505) 242-1106
luis@roblesrael.com
terri@roblesrael.com

ATTORNEYS FOR DEFENDANTS

/s/ Larry J. Montañó
Larry J. Montañó
Robert J. Sutphin, Jr.
Kristina Martinez