

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLORADO

Jose Guadalupe Rocha v. Matt Winden

Rocha v. Winden · No. 1:23-cv-00756-GPG-SBP · Decided March 10, 2026

SUMMARY

The United States District Court for the District of Colorado grants in part and denies in part Jose Guadalupe Rocha’s motion to reopen discovery, compel production, and seek sanctions. The court finds that Rocha did not demonstrate good cause or diligence warranting the broader discovery and depositions requested, but permits limited discovery concerning Centennial Correctional Facility classification records that the defendant agreed were relevant. The order addresses discovery under Rule 16(b)(4), the relevance and proportionality of requested materials, and the relationship between the discovery dispute and the defendant’s pending qualified-immunity summary-judgment motion.

CASE DETAILS

COURT	United States District Court for the District of Colorado
WRITING FOR THE COURT	Susan Prose
JURISDICTION	United States District Court for the District of Colorado
DECIDED	March 10, 2026
DOCKET	1:23-cv-00756-GPG-SBP
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff moved to reopen discovery, compel production, and obtain sanctions while a defendant's motion for summary judgment was pending. The magistrate judge granted the motion in part to permit narrowly limited discovery concerning documents the defendant agreed were relevant and denied it in all other respects.
STANDARD OF REVIEW	Modification or reopening of a scheduling order under Federal Rule of Civil Procedure 16(b)(4) requires good cause and the judge's consent; the movant must show that the deadline could not be met despite diligent efforts. The decision whether to extend or reopen discovery is committed to the court's sound discretion, evaluated under the factors identified in Smith v. United States. Discovery must also be relevant and proportional to the needs of the case.
PRECEDENTIAL VALUE	unpublished district court order; precedential status not stated

PARTIES

Jose Guadalupe Rocha v. Matt Winden, Warden of Centennial Correctional Facility

TOPICS

discovery dispute

sanctions

qualified immunity

summary judgment

section 1983

PRACTICE AREAS

civil procedure

prisoner civil rights

constitutional law

QUESTIONS PRESENTED

1. Whether Rocha established good cause under Federal Rule of Civil Procedure 16(b)(4) to reopen discovery broadly for additional documents and depositions.
2. Whether the defendant's concession that limited Centennial Correctional Facility classification documents were relevant justified narrowly limited additional discovery.
3. Whether Winden or his counsel engaged in sanctionable discovery conduct under Federal Rule of Civil Procedure 37.

HOLDINGS

1. Rocha failed to show good cause to reopen discovery for the broad categories of documents and depositions he sought because the record demonstrated a lack of diligence, the requested discovery would prejudice Winden and expand the case, and the discovery was unlikely to lead to relevant admissible evidence on qualified immunity.
2. Limited good cause existed to reopen discovery so that Winden could produce the relevant Centennial Correctional Facility Internal Classification Committee minutes and related documents, followed by five interrogatories limited to those documents.
3. Sanctions were unwarranted because the record did not establish obstruction, misrepresentation, or other sanctionable conduct by Winden or his counsel.

FACTUAL BACKGROUND

Rocha claimed that prison and investigative records, including classification materials, Office of Inspector General records, and an audio recording of a disciplinary hearing, were necessary to oppose Winden's summary-judgment motion on Rocha's First Amendment retaliation claim. The record showed that discovery materials had been provided through the prison law library, that Rocha did not attempt to access the hearing audio for months, and that he did not communicate with defense counsel for an extended period after receiving discovery responses. Winden nevertheless conceded that limited Internal Classification Committee materials concerning Rocha's transfer from Centennial Correctional Facility to Colorado State Penitentiary were relevant and should be produced.

PROCEDURAL HISTORY

Rocha brought a First Amendment retaliation claim under 42 U.S.C. § 1983 against Winden in his individual capacity, alleging that Winden caused Rocha to be transferred after Rocha invoked his right to remain silent during a drug-introduction investigation. Discovery had previously been closed and was temporarily reopened to permit an additional document request. After Winden moved for summary judgment, Rocha sought broader additional discovery under Rules 16(b) and 37, asserting that he lacked materials needed to respond. Following supplemental briefing and a status conference, the court allowed production of limited Centennial Correctional Facility classification materials and five related interrogatories, but denied the requested broader discovery and sanctions.

DISPOSITION

other

CASES CITED

- *Gorsuch, Ltd., B.C. v. Wells Fargo Nat'l Bank Assoc.*, 771 F.3d 1230, 1240 (10th Cir. 2014)
- *Pumpco, Inc. v. Schenker Int'l, Inc.*, 204 F.R.D. 667, 668 (D. Colo. 2001)
- *Strope v. Collins*, 315 F. App'x 57, 61 (10th Cir. 2009)
- *Sher v. Amica Mut. Ins. Co.*, 722 F. Supp. 3d 1176, 1181 (D. Colo. 2024)
- *Colo. Visionary Acad. v. Medtronic, Inc.*, 194 F.R.D. 684, 688 (D. Colo. 2000)
- *Smith v. United States*, 834 F.2d 166, 169 (10th Cir. 1987)
- *Surat v. Klamser*, *Surat v. Klamser*, 52 F.4th 1261, 1270-71 (10th Cir. 2022)
- *Felders ex rel. Smedley v. Malcom*, 755 F.3d 870, 877-78 (10th Cir. 2014)
- *Medina v. Cram*, 252 F.3d 1124, 1128 (10th Cir. 2001)
- *Pahls v. Thomas*, 718 F.3d 1210, 1227 (10th Cir. 2013)
- *Dodds v. Richardson*, 614 F.3d 1185, 1193-94 (10th Cir. 2010)
- *Sinclair Wyo. Ref. Co. v. A & B Builders, Ltd.*, 989 F.3d 747, 783 (10th Cir. 2021)
- *Morales-Fernandez v. INS*, 418 F.3d 1116, 1119, 1122 (10th Cir. 2005)

OPINION

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLORADO Civil Action No. 1:23-cv-00756-GPG-SBP JOSE GUADALUPE ROCHA, Plaintiff, v. MATT WINDEN, Warden of Centennial Correction Facility, Defendant. ORDER OF UNITED STATES MAGISTRATE JUDGE Susan Prose, United States Magistrate Judge Before the court is Plaintiff Jose Guadalupe Rocha's Motion to Reopen Discovery, to Compel Production, and for Sanctions Pursuant to Fed.

R. Civ. P. 16(b) and 37. ECF No. 126 ("Motion" or "Motion to Reopen Discovery"); ECF No. 130, Memorandum Referring Motion. To attempt to bring clarity to the convoluted procedural history that has culminated in the instant Order, the court begins with a summary of the situation.

The Motion to Reopen Discovery is inextricably intertwined with another motion: Defendant Matt Winden's Motion for Summary Judgment Under Fed. R. Civ. P. 56. ECF No. 95. Mr. Rocha maintains that he cannot prepare a response to the Motion for Summary Judgment without the discovery he seeks in the Motion to Reopen Discovery.

For his part, Mr. Winden disputes that the discovery Mr. Rocha claims to need bears any relevance to the only remaining claim in this case: a claim that Mr. Winden, in his individual capacity, retaliated against Mr. Rocha in violation of the First Amendment by transferring Mr. Rocha to the Colorado State Penitentiary ("CSP") after he invoked his right to remain silent during the investigation of a drug introduction incident.¹ However, Mr. Winden acknowledges that there is a minimal amount of documentation, previously not produced, that Mr. Rocha is entitled to have and that Mr. Winden is willing to provide.

The court has spent significant time examining the briefing and the entire docket. The court has taken into account its knowledge of the history of this case, including its familiarity with the statements made by the parties during court proceedings.

In the end, the court must act to ensure that the summary judgment determination rests on an accurate record to which both parties have contributed. To facilitate that purpose, the court concludes that discovery will be reopened to a very limited extent, consistent with the restrictions on scope and time set forth below.

Accordingly, the court respectfully ORDERS that Mr. Rocha's Motion to Reopen Discovery is GRANTED in part and DENIED in part, as further delineated in this Order. A. Relevant Background There has been much back and forth between the parties—and numerous court filings—concerning Mr. Rocha's allegations that he has not received the discovery he has requested in this case.

The court will drill down on those aspects of the record that relate to the court's determination that some discovery, of a very limited nature, will be allowed. 1 The Motion for Summary Judgment describes this investigation as having been prompted by a monitored call between Mr. Rocha and his mother which indicated the two were coordinating to introduce drugs into the Centennial Correctional Facility, and investigators' subsequent confirmation that Mr. Rocha's mother sent him a letter that tested positive for synthetic cannabinoids.

See ECF No. 95 at 3 ¶¶ 10-14. 1. Discovery Timeline and the Initial Briefing on the Motion On May 16, 2025, Mr. Rocha filed a Notice to the Court Regarding Email Communication, Discovery Request, and Incomplete Disclosures, in which he identified records that he considered necessary to support his retaliation claim, but that allegedly had not been produced to him.

ECF No. 86. In an August 11, 2025 filing entitled "Plaintiff's Response to Defendant's Motion for Summary Judgment and Request for Relief Under Rule 56(d)," Mr. Rocha did not substantively

address the Motion for Summary Judgment, but instead asserted that Mr. Winden's counsel did not produce requested discovery materials and failed to communicate with him regarding discovery.

See ECF No. 107 at 2 ("During my deposition with the Attorney General's office, I also identified specific discovery materials and issues I need to support my claims. These included documentation, reports, and internal communications related to classification, transfers and restrictions imposed on me. Those requests were made on the record but were never followed up on or fulfilled by Defendant.").

Mr. Rocha asserts that, without this discovery material, he cannot respond to the Motion for Summary Judgment. *Id.* at 4. Mr. Winden, through his counsel, takes a different view of the matter. He asserts that, on June 2, 2025, his counsel responded to Mr. Rocha's discovery requests "in full." ECF No. 125 at 2 (citing ECF No. 92); see also Defendant Winden's Responses to Plaintiff's First Set of Requests for Production of Documents dated June 2, 2025, ECF No. 92-1.

On October 10, 2025, Mr. Rocha filed the instant Motion to Reopen Discovery, in which he reiterates his claim that defense counsel has resisted producing the discovery he needs and that "key categories remain missing." See ECF No. 126 ¶ 19. Those allegedly missing "categories" of information include the full audio recording of a "COPD," or Code of Penal Discipline, hearing; an Office of Inspector General ("OIG") file, including "field notes, witness statements, and communications"; Internal Classification Committee ("ICC") and "PC" records; and "informant and Montoya interview materials." *Id.* ¶¶ 13-16.

On November 25, 2025, defense counsel provided a detailed response to Mr. Rochas's allegations concerning Defendant's alleged non-responsiveness to discovery, including by means of a sworn declaration submitted by LeAnn Puga, a legal assistant employed by the Colorado Department of Corrections ("CDOC") who works as a Team Leader for the Sterling Correctional Facility ("SCF") where Mr. Rocha has been incarcerated since September 2024, with brief transfers to other facilities between January 17 and February 13, 2025, when he returned to SCF.

Puga Decl., ECF No. 138-1 ¶¶ 1, 3, 13-14.2 Ms. Puga's declaration, along with other information submitted by defense counsel, establishes the following timeline of activities concerning the production of discovery materials to Mr. Rocha: • A disc containing discovery materials was mailed to Mr. Puga from the Colorado Attorney General's Office on December 17, 2024, which was received at SCF in late December 2024.

(Puga Decl. ¶ 15). • Defense counsel mailed Mr. Rocha a privilege log accompanying the discovery materials on the disc, for which Mr. Rocha signed on December 14, 2024. (ECF No. 138-2). Ms. Puga gave Mr. Rocha another copy of the privilege log on November 19, 2025, after he claimed it was missing. (Puga Decl. ¶ 24). • The disc was uploaded to Mr. Rocha's SCF law

library folder three times: once upon receipt, again on April 17, 2025, and again on September 15, 2025.

(Id. ¶ 16). • The files on the disc included six audio files, including one titled “00428 CONFIDENTIAL Offender Rocha COPD hearing.mp4.” (Id. ¶ 17). The files on the 2 The court has been given no reason to question the veracity of Ms. Puga’s statements and finds her testimony credible. disc also included written discovery that Mr. Rocha had requested, including Intelligence Reports, Office of Inspector General investigation records, and confidential informant information.

See ECF No. 92-1 at 2-4 (responses to requests for production numbers 2, 6, 7). • As of November 25, 2025, Mr. Rocha’s Law Library Access Report showed that he had been scheduled for 31 appointments with the law library since November 2024. (Puga Decl. ¶ 18; ECF No. 138-2). • Mr. Rocha appeared for thirteen of those appointments on the following dates in 2025: March 6, March 13, April 16, April 24, September 17, September 18, September 24, September 25, September 30, October 10, October 17, October 28, and November 5.

(Puga Decl. ¶ 19). • Mr. Rocha was listed as “No-Showed” for appointments at the law library on March 6, September 16, and October 2, 8, 9, 15, 16, and 29, 2025. (Id. ¶ 20).³ • On September 17, 2025, Mr. Rocha brought to Ms. Puga’s attention for the first time since the disc arrived in December 2024 that he was unable to access the COPD audio file labeled “00428 CONFIDENTIAL Offender Rocha COPD hearing.mp4.” (Id. ¶ 21). • On September 18, 2025, the prison’s Office of Information Technology converted the file from an MP4 format to an MP3 format, giving Mr. Rocha access to the file that day.

(Id. ¶ 22). • Mr. Rocha did not mention the COPD audio file again until November 19, 2025, when he informed Ms. Puga that the audio only played two minutes, but it was supposed to be approximately forty minutes in length. (Id. ¶ 25). • Ms. Puga determined the source of the technical issue and, on November 20, 2025, the Attorney General’s Office provided a new copy in MP3 format, to eliminate the need to convert the file to another format on the prison’s end.

(Id. ¶ 28). Ms. Puga confirmed that the COPD hearing audio “played in its entirety” on the computers to which SCF prisoners have access. (Id. ¶ 29). ³ The overlap of days in which Mr. Rocha both went to the law library and “No-Showed” is attributable to some appointments being scheduled in the mornings and others in the afternoons. • On November 24, 2025, Ms. Puga provided Mr. Rocha the fully-functioning COPD hearing audio.

(Id. ¶ 30). • Mr. Rocha continues to have access to the law library and all discovery materials. ECF No. 146 at 2 n.2 (stating that defense counsel “confirmed with SCF law library supervisor LeeAnn Puga, that Plaintiff has continued access to the law library and discovery materials”). Further, per the representation of Mr. Winden’s counsel, as of November 25, 2025: Plaintiff has not communicated directly with defense counsel since April 2025 when he sent his First (and only)

Written Discovery Requests, (ECF No. 86 at ¶ 1; ECF No. 124 at ¶ 18), which were responded to on June 2, 2025.

(ECF Nos. 92, 92- 1). Additionally, Plaintiff never communicated with anyone at CDOC to set up any depositions, nor did he ever send any type of communications, subpoenas for testimony, or other notices to defense counsel[.] ECF No. 138 at 3. 2. Supplemental Briefing on the Motion In light of the information that emerged from the initial briefing on the Motion to Reopen Discovery, the court was left to wonder exactly what discovery Mr. Rocha claimed had been withheld from him.

On January 6, 2026, this court held a status conference and ordered the parties to provide limited supplement briefing concerning any matter relevant to the Motion to Reopen Discovery, with specific emphasis on documents Mr. Rocha contended still had not been produced to him. ECF No. 144 at 2. Mr. Winden filed his supplemental brief on January 27, 2026 (ECF No. 146), and Mr. Rocha filed his on February 5, 2026 (ECF No. 147).

Mr. Winden's counsel represents that, to facilitate the supplemental briefing ordered by the court, "counsel spoke with Plaintiff on January 13, 2026, to clarify which documents he seeks or believes are being withheld." ECF No. 146 at 2. Based on that conversation, defense counsel gleaned that the documents Mr. Rocha still seeks fall into three categories: (1) Internal Classification Committee ("ICC") minutes from Limon Correctional Facility ("LCF") from February 2021 to May 2022; (2) ICC Minutes from Centennial Correctional Facility ("CCF") from May 2022 to November 2022; and (3) Office of Inspector General ("OIG") "intelligence reports", other "confidential records" or other documents in which Mr. Rocha was investigated.

See *id.* Counsel's conclusion squares with Mr. Rocha's own description of the documents he asks the court to order Defendant to produce: "the ICC minutes and related classification/transfer decision records relevant to Plaintiff; Intelligence Unit and/or OIG materials relied upon to justify sanctions/transfer/classification and to pursue COPD charges against Plaintiff (including references to informants, where permissible, with redactions as appropriate); and any materials necessary to reconcile the discrepancies between COPD sworn testimony and earlier investigative reports." ECF No. 147 at 7.

Counsel for Mr. Winden concedes that the ICC minutes from the Centennial Correctional Facility are relevant to the one claim that remains in this case: that Mr. Winden allegedly retaliated against Mr. Rocha "by having him transferred from CCF to CSP after Plaintiff invoked his right to remain silent on November 9, 2022, during a drug introduction investigation." ECF No. 146 at 3; *id.* at 4 (describing the ICC minutes as "contain[ing] a single discrete entry pertaining to Plaintiff").

Defense counsel argues, however, that the ICC minutes from the Limon Correctional Facility are not relevant to the retaliation claim against Mr. Winden, *id.* at 4-5, and the record gives the court

no reason to suppose that Mr. Winden had any involvement with Mr. Rocha, in any way, during the period of Mr. Rocha's incarceration at Limon. Defendants counsel further asserts that all relevant OIG records have been disclosed to Mr. Rocha.

Id. at 5. Specifically, counsel states that "Defendant already produced all materials in the relevant OIG drug investigation" of Mr. Rocha—that is, the investigation that took place at CCF in October 2022. Id. (referencing 58 pages of bates-numbered documents).⁴ One audio interview connected with the investigation at CCF was withheld on the basis of the official information privilege on grounds that "disclosure would implicate institutional safety and security concerns." Id. Mr. Winden has declined to produce the broader scope of OIG records related to all instances in which Mr. Rocha has been investigated during his confinement in CDOC custody, which Mr. Winden asserts is overbroad and disproportionate to the needs of a case in which "[t]he only remaining issue... is whether [Mr.

Winden] retaliated against Plaintiff because he invoked his right to remain silent during a drug introduction investigation" at CCF in October 2022. Id. at 5-6. Mr. Rocha presses for the full panoply of ICC minutes and OIG documents related to him—not limited to the October 2022 investigation at CCF—based on his review of the "COPD audio," which he claims "revealed new, material information that was not previously available" to him, including the names of other participants in the hearing; an alleged admission by the hearing officer of a procedural due process violation and "a recommendation to dismiss or throw out the case"; and other indications of "acknowledged procedural defects." Id. at 1.

4 To identify potentially responsive OIG materials, counsel represents that she spoke with a CDOC OIG Analyst who confirmed that there were "[n]o additional OIG records... relating to the October 2022 investigation relevant to Plaintiff's claim" against Mr. Winden. ECF No. 146 at 6. B. Analysis The court first addresses Mr. Rocha's request to reopen discovery and then analyzes the impact of Mr. Winden's concession that ICC minutes from the Centennial Correctional Facility are relevant and should be produced.

1. Mr. Rocha Has Not Shown Good Cause to Reopen Discovery to the Extent He Seeks Starting with the governing legal principles, Rule 16(b) provides that a scheduling order "may be modified only for good cause and with the judge's consent." Fed. R. Civ. P. 16(b)(4). "In practice, this standard requires the movant to show the 'scheduling deadlines cannot be met despite [the movant's] diligent efforts.'" *Gorsuch, Ltd., B.C. v. Wells Fargo Nat'l Bank Assoc.*, 771 F.3d 1230, 1240 (10th Cir.

2014) (citing *Pumpco, Inc. v. Schenker Int'l, Inc.*, 204 F.R.D. 667, 668 (D. Colo. 2001)). To satisfy the diligence standard, the moving party "must provide an adequate explanation for any delay." *Strope v. Collins*, 315 F. App'x 57, 61 (10th Cir. 2009) (quotation omitted). "A party's delay in

performing the pretrial preparation necessary to recognize a claim or defense does not satisfy Rule 16(b)(4)'s good cause standard." *Sher v. Amica Mut.*

Ins. Co., 722 F. Supp. 3d 1176, 1181 (D. Colo. 2024), reconsideration denied, 2024 WL 4504565 (D. Colo. Oct. 16, 2024) (citing *Colo. Visionary Acad. v. Medtronic, Inc.*, 194 F.R.D. 684, 688 (D. Colo. 2000)). Whether to allow modify a scheduling order "to extend or reopen discovery is committed to the sound discretion" of the court. *Smith v. United States*, 834 F.2d 166, 169 (10th Cir.

1987) (citations omitted). In exercising this discretion, courts typically consider the following factors: (1) whether trial is imminent; (2) whether the request to reopen or extend discovery is opposed; (3) whether the non-moving party would be prejudiced; (4) whether the moving party was diligent in obtaining discovery within the guidelines established by the court; (5) the foreseeability of the need for additional discovery in light of the time allowed for discovery by the court; and (6) the likelihood that the discovery will lead to relevant evidence.

Id. (citations omitted). Because the fourth factor focuses on the critical question of diligence, the court begins there. Whether Mr. Rocha has been diligent in conducting discovery. The record demonstrates that Mr. Rocha has failed to exercise diligence in pursuing discovery.

The timeline illustrates that Mr. Rocha had visited the law library five times by the time this court conducted a status conference on April 23, 2025. See Courtroom Minutes, ECF No. 83. At that conference, based on Mr. Rocha's representations concerning his purported lack of access to discovery materials, the court reopened discovery (which had closed on April 17, 2025, see ECF No. 70) to allow Mr. Rocha to issue one additional request for production of documents.

ECF No. 83 at 2. The court then extended the discovery deadline to June 2, 2025, and the deadline for filing dispositive motions to July 28, 2025. *Id.* Before the June 2, 2025 discovery cut-off, Mr. Rocha only went to the law library one more time: on April 24, 2025. *Puga Decl.* ¶ 19.

After that, he did not schedule an appointment with the law library until September 16, 2025—nearly two months after Mr. Winden filed the Motion for Summary Judgment—and Mr. Rocha "No-Showed" for the September 16 appointment too. *Id.* Mr. Rocha did not discover the technical problem with the COPD audio file before September 17, 2025, because he made no attempt to listen to it before that date.

Id. ¶ 21. Prison staff responded and believed the problem had been fixed as of September 18. *Id.* ¶ 22. They had no reason to doubt that because Mr. Rocha didn't attempt to listen to the audio again until two months later, on November 19, 2025, when he informed Ms. Puga that the recording was still incomplete. *Id.* ¶ 25. Mr. Rocha also made no effort to engage with defense counsel during the critical period between the close of discovery and the summary judgment deadline.

Indeed, he made no attempt to communicate directly with defense counsel for at least a full seven months—from April 2025 to November 25, 2025—including to discuss any issue he may have had with the discovery responses counsel provided to him on June 2, 2025. ECF No. 138 at 3.

In light of this record, the court cannot credit Mr. Rocha's assertion that he "could not act on the COPD audio's contents until the file was reviewable," and that "[o]nce it was, [he] acted promptly." ECF No. 147 at 6.

The COPD hearing audio was available to him for nine months before he first made an effort to listen to it in September 2025, and then he delayed another two months before apprising prison personnel that it still was not functional. All told, Mr. Rocha's actions resulted in an eleven-month delay between the time he could have accessed the audio he now claims to be of critical importance and the time he actually did.

Furthermore, as to Mr. Rocha's request to reopen discovery "to take limited depositions" of the COPD hearing officer, a lieutenant named Cassidy, and COPD board members Cooper, Langley, and Robertson, see ECF No. 147 at 8, he has demonstrated a lack of diligence in this regard, too. This court granted Mr. Rocha's motion for leave to depose Mr. Winden, Mr. Cooper, and others on July 17, 2025, ECF No. 93, but Mr. Rocha took no steps to conduct those depositions.⁵ To the extent he contends that the names of these individuals were unknown to him ⁵ Based on Mr. Rocha's representation that he is indigent, the court assumes that his financial limitations would prevent him from taking these depositions even if discovery were reopened.

As until he listened to the COPD hearing audio—which there is reason to doubt, based on the record before the court—that delay is entirely attributable to him. See *Sher*, 722 F. Supp. 3d at 1176 (the good cause standard under Rule 16(b)(4) is not met where a party delays "in performing the pretrial preparation necessary to recognize a claim or defense").

In sum, Mr. Rocha's demonstrable inaction, both with respect to reviewing the discovery he had been given and not following through on conducting depositions, evinces a lack of diligence on his part that compels the court to find the fourth Smith factor weighs strongly against reopening discovery. Whether trial is imminent. Mr. Rocha argues that, because no trial has been set, "reopening limited discovery is less disruptive and more equitable." ECF No. 147 at 6 (citing *Smith*, 834 F.2d at 169).

To be sure, no trial date has been set and will not be set until the question of Mr. Winden's entitlement to qualified immunity is resolved on summary judgment. See Courtroom Minutes of Preliminary Scheduling Conference, ECF No. 35 at 2 ("If no summary judgment motions are filed, the parties shall contact Judge Gallagher's chambers jointly via email within ten days after the dispositive motions deadline to set a Final Pretrial Conference.

If dispositive motions are filed, the parties shall contact Judge Gallagher's chambers jointly via email within thirty days after the Court has issued a ruling (assuming the case survives a motion for summary judgment) to set a Final Pretrial Conference."). Even so, the fact that trial is not imminent is due, in part, to Mr. Rocha's conduct in this case. Had he complied with his discovery obligations in a timely manner, he would have this court has explicitly informed Mr. Rocha, he "shall be responsible for organizing, and paying, for, any deposition he wishes to conduct." ECF No. 93. responded to Mr. Winden's motion for summary judgment months ago.

Assuming he could have overcome Mr. Winden's assertion of qualified immunity, odds are that Judge Gallagher would have set a trial by now. The fact that trial is not imminent because of Mr. Rocha's conduct during the litigation does not tip the first Smith factor in favor of reopening discovery. Whether Mr. Winden opposes reopening discovery. Mr. Winden does oppose reopening discovery to the extent Mr. Rocha advocates, and for a valid reason.

As Mr. Winden notes, he filed his Motion for Summary Judgment months ago, and Mr. Rocha's excuse for not making a substantive response rests on his "fail[ure] to depose people he did not previously prioritize and fail[ure] to address the discovery files that he has had access to since December 2024." ECF No. 138 at 10.

Thus, this factor weighs against reopening discovery. Whether Mr. Winden will be prejudiced by reopening discovery in the manner Mr. Rocha demands. Mr. Rocha argues that Mr. Winden will not suffer "undue prejudice" because Mr. Rocha seeks only "narrow and targeted" discovery, imposing but an "incremental burden." ECF No. 147 at 6. Mr. Rocha emphasizes that this discovery would be completed in a short span of sixty to ninety days, that he wants to depose only those "specific individuals revealed on the audio," and that his document requests similarly are limited and "tied to Intelligence/ICC and the COPD process." *Id.* Mr. Rocha's characterization inaccurately minimizes the breadth of his intended discovery and consequently fails to acknowledge the actual prejudice to Mr. Winden.

Mr. Winden is prejudiced because the discovery Mr. Rocha would pursue would substantially expand the scope of the case in that it is extraneous to the only remaining question at this juncture: whether Mr. Rocha can satisfy his heavy, two-part burden to overcome Mr. Winden's assertion of qualified immunity. See, e.g., *Surat v. Klamser*, 52 F.4th 1261, 1270-71 (10th Cir.

2022) (recognizing that to overcome the defense of qualified immunity, "the onus is on the plaintiff to demonstrate (1) that the official violated a statutory or constitutional right, and (2) that the right was clearly established at the time of the challenged conduct") (quotations omitted); *Felders ex rel. Smedley v. Malcom*, 755 F.3d 870, 877-78 (10th Cir.

2014) (characterizing this as a "heavy two-part burden"); (quoting *Medina v. Cram*, 252 F.3d 1124, 1128 (10th Cir. 2001)). To meet this burden, Mr. Rocha must show that Mr. Winden

personally participated in the alleged violation of Mr. Rocha's constitutional rights in violation of clearly established law. See *Pahls v. Thomas*, 718 F.3d 1210, 1227 (10th Cir. 2013) (“[A]lthough the requirement of personal participation, including the question of supervisory liability, is a component of liability under § 1983 and *Bivens*, we also incorporate it into our qualified-immunity analysis, where we ask whether a clearly established constitutional right has been violated.”) (citing *Dodds v. Richardson*, 614 F.3d 1185, 1193-94 (10th Cir.

2010)). In the reopened discovery scenario Mr. Rocha now posits, he would depose no fewer five persons who (unlike Mr. Winden) participated in the COPD hearing: Hagan/Higgin, Cassidy, Cooper, Langley, and Robertson, as well as “any other newly identified material witnesses revealed in the audio. ECF No. 147 at 7. Discovery designed to delve into the actions of other CDOC officials strays far from the core question of Mr. Winden's entitlement to qualified immunity.

And the same can be said of ICC minutes from a correctional facility in which Mr. Winden is not alleged to have worked or encountered Mr. Rocha, as well as “Intelligence Unit and/or OIG materials” encompassing Mr. Rocha's history of discipline in the prison going back to 2014. See *id.*; see also ECF No. 95-2 at 8 (listing Rocha's July 8, 2014 disciplinary conviction related to “phone conversation which deals w/obtaining drugs and telling how to get them into the facility”).

In short, the discovery Mr. Rocha wants now (and could have sought during the discovery period) would improperly expand the scope of this litigation and significantly delay the resolution of the question of whether Mr. Winden is entitled to qualified immunity.

To permit this litigation to be diverted in the fashion Mr. Rocha seeks certainly prejudices Mr. Winden. This factor, too, weighs against granting Mr. Rocha's request to open discovery. Whether the additional discovery Mr. Rocha seeks was foreseeable. Mr. Rocha says the discovery was not foreseeable until he heard the COPD hearing audio, see ECF No. 147 at 6, but Mr. Rocha could have listened to that audio months before he did.

Mr. Rocha cannot manufacture a lack of foreseeability by closing his eyes to information that was long within his reach. This factor weighs against Mr. Rocha's request to reopen discovery. Whether the discovery Mr. Rocha seeks will lead to admissible evidence.

As the court has explained, the discovery Mr. Rocha seeks to conduct at this advanced stage of the case is immaterial to the remaining question of whether Mr. Winden is entitled to qualified immunity and Mr. Rocha's ability to overcome that defense. This point is emphasized by Mr. Rocha's desire to dig into such matters as “whether decisionmakers proceeded despite acknowledged due process violations,” and “the identity and testimony of the board members and charging officer(s),” see *id.* (emphasis added)—questions which have *de minimis*, if any, bearing on Mr. Winden's personal involvement in an alleged violation of Mr. Rocha's constitutional rights.

Put otherwise, this additional discovery is unlikely to reveal admissible evidence on these dispositive questions and is therefore neither relevant nor proportional to the needs of the case. Hence, this factor also weighs against reopening discovery for the purposes Mr. Rocha seeks. Conclusion regarding Mr. Rocha's request to reopen discovery.

On balance, the court respectfully finds that the relevant factors do not warrant reopening discovery in the manner Mr. Rocha seeks. 2. Good Cause Exists to Allow Limited Discovery Concerning the New Documents to be Produced by Defendant Although Mr. Rocha has not demonstrated good cause to reopen discovery to obtain the depositions and documents he seeks, that does not end the court's assessment.

The court must take into account the fact that Mr. Winden, after conferral between his counsel and Mr. Rocha, has agreed to produce the ICC minutes from Centennial Correctional Facility related to Mr. Rocha's November 18, 2022 transfer to CSP. See ECF No. 146 at 4. Mr. Winden states that this document "contains a single discrete entry pertaining to Plaintiff," and that Mr. Winden will "produce the ICC meeting attendance roster and the limited pages reflecting the Restrictive Housing Review conducted at that meeting." Id.⁶ The practical effect of defense counsel's determination that a group of relevant documents, however small, should be produced to Mr. Rocha is that discovery must be opened, even if not to the extent Mr. Rocha demands.

In light of the tacit acknowledgment that the documents Defendant intends to produce are relevant to Mr. Rocha's claims (or Mr. Winden's defenses), the court finds good cause to permit Mr. Rocha to make some additional inquiry into those materials he presumably has not seen to date.

Therefore, following receipt of the 6 Mr. Winden represents that the cases of many prisoners were reviewed during that meeting and that entries not related to Mr. Rocha will be "redacted to protect confidential information and avoid disclosure of irrelevant material." ECF No. 146 at 4.

The court finds good cause for this limitation and approves it. documents, Mr. Rocha will be allowed to submit to Mr. Winden five (5) interrogatories, including discrete subparts, limited to the subject-matter of the documents. Mr. Rocha is respectfully advised that he shall not include multiple questions within each interrogatory, and that the interrogatories are not a license for him to inquire about any issue outside the subject matter of the new documents to be produced.

This very limited additional discovery shall proceed on the following schedule: March 30, 2026: Deadline for Defendant to produce to Mr. Rocha the above-referenced CCF's ICC minutes and related documents, subject to proper redactions for confidential information, related to Mr. Rocha's transfer to CSP. April 20, 2026: Deadline for Mr. Rocha to submit to Defendant five (5) interrogatories, including discrete subparts, limited to the subject-matter of the ICC minutes and related documents.

May 20, 2026: Deadline for Defendant to respond to Mr. Rocha's interrogatories. No extensions of these deadlines will be granted absent extraordinary circumstances. 3. No Sanctions Will Be Awarded Against Mr. Winden or His Counsel Finally, the court rejects Mr. Rocha's contention that Mr. Winden or his counsel has engaged in any sanctionable conduct in this matter.

See ECF No. 126 at 3 ¶¶ 21-22. The record provides no reason for this court to countenance Mr. Rocha's assertion that defense counsel has engaged in "repeated obstruction and misrepresentation" that has "caused [him] severe prejudice." Id. ¶ 21.

To the contrary, it is Mr. Rocha who let months on end go by before looking at discovery that defense counsel had provided to him, and it is Mr. Rocha who made no attempt to communicate with defense counsel for period of more than half a year. Furthermore, a review of the entire docket gives this court no reason to conclude that defense counsel has acted other than with professionalism and integrity at all times during this litigation and—as pertinent to Mr. Rocha's specific allegations—in compliance with their obligations under the Federal Rules of Civil Procedure, the Local Rules of Practice of this court, and the Colorado Rules of Professional Conduct.

Accordingly, insofar as the Motion to Reopen Discovery seeks sanctions against Mr. Winden or his counsel, it is DENIED. CONCLUSION For the foregoing reasons, it is respectfully ORDERED that Plaintiff's Motion to Reopen Discovery, to Compel Production, and for Sanctions Pursuant to Fed. R. Civ. P. 16(b) and 37 (ECF No. 126), is GRANTED in part, to the very limited extent that Defendant shall be required to produce the documents described in this Order and shall be required to respond to five interrogatories, including discrete subparts, specifically directed to those documents.

The Motion is DENIED in all other respects.⁷ 7 Rule 72 of the Federal Rules of Civil Procedure provides that within fourteen (14) days after service of a Magistrate Judge's order or recommendation, any party may serve and file written objections with the Clerk of the United States District Court for the District of Colorado. 28 U.S.C. §§ 636(b)(1)(A), (B); Fed.

R. Civ. P. 72(a), (b). Failure to make any such objection will result in a waiver of the right to appeal the Magistrate Judge's order or recommendation. See *Sinclair Wyo. Ref. Co. v. A & B Builders, Ltd.*, 989 F.3d 747, 783 (10th Cir. 2021) (firm waiver rule applies to non-dispositive orders); but see *Morales-Fernandez v. INS*, 418 F.3d 1116, 1119, 1122 (10th Cir.

2005) (firm waiver rule does not apply when the interests of justice require review, including when a "pro se litigant has not been informed of the time period for objecting and the consequences of failing to object"). DATED: March 10, 2026 BY THE COURT: Susan Prose United States Magistrate Judge 19

