

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

_____	)	
JESSICA RUBIO,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. 10-262 (RWR)
	)	
DISTRICT OF COLUMBIA, <u>et al.</u> ,	)	
	)	
Defendants.	)	
_____	)	

MEMORANDUM ORDER

Plaintiff Jessica Rubio filed a two-count complaint under 42 U.S.C. § 1983 against the District of Columbia and Corrections Corporation of America ("CCA"), for purported violations of her constitutional rights that occurred while Rubio was incarcerated on separate occasions in 2008 and 2009. (Compl. ¶ 6.) On March 16, 2010, CCA moved under Federal Rule of Civil Procedure 12(b)(6) to dismiss Count II of the complaint as it applied to CCA. Rubio filed no opposition. Instead, on March 23, 2010, Rubio filed a motion for leave to file an amended complaint that adds one count of false imprisonment. The District of Columbia filed no opposition to Rubio's motion. However, CCA opposed Rubio's motion, arguing that Rubio's motion was untimely, and that the proposed new count would be futile because CCA could not be held liable under that count.

Count III of Rubio's amended complaint does not name CCA and seeks to hold liable only the District of Columbia. Moreover,

Rubio was entitled to amend her complaint as a matter of course within 21 days after CCA filed its motion to dismiss. Fed. R. Civ. P. 15(a)(1)(B). Thus, Rubio's motion was neither untimely nor even necessary, and will be granted.

Count II of the amended complaint is identical to Count II of the original complaint, and CCA's motion to dismiss will be treated as one to dismiss Count II of the amended complaint. Since Rubio filed no opposition, CCA's motion will be deemed conceded, and will be granted. See Local Civil Rule 7(b); Fox v. Am. Airlines, Inc., 389 F.3d 1291, 1294-95 (D.C. Cir. 2004) (affirming a district court's dismissal of a complaint where the plaintiff failed to comply with Local Civil Rule 7(b)); see also Cooper v. Farmers New Century Ins. Co., 607 F. Supp. 2d 175, 180 (D.D.C. 2009) (granting motion to dismiss as conceded based on the plaintiff's failure to respond to arguments raised in the motion); Bonaccorsy v. Dist. of Columbia, 685 F. Supp. 2d 18, 24 (D.D.C. 2010) (citing CSX Transp., Inc. v. Commercial Union Ins. Co., 82 F.3d 478, 482-83 (D.C. Cir. 1986) and Felter v. Salazar, 679 F. Supp. 2d 1, 4 n.2 (D.D.C. 2010)). Therefore, it is hereby

ORDERED that Rubio's motion [6] for leave to file an amended complaint be, and hereby is, GRANTED. It is further

ORDERED that the Clerk file the amended complaint [#6-1].  
It is further

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ORDERED that CCA's motion [2] to dismiss Count II as it applies to CCA be, and hereby is, GRANTED. Count II of the amended complaint is dismissed as it applies to CCA.

SIGNED this 29th day of November, 2010.

/s/  
RICHARD W. ROBERTS  
United States District Judge