

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

APR 27 2006

GREGORY C. LANGHAM
CLERK

Civil Action No. 06 - CV - 00809 - BNB
(The above civil action number must appear on all future papers sent to the court in this action. Failure to include this number may result in a delay in the consideration of your claims.)

CHARLES WHALEN #06247-073, and
ANDRES GONZALES #12273-051,

Plaintiffs.

v.

WILEY – Former Warden,
RIOS – Warden,
GUNJA – Former Associate Warden,
HOLT – Former Associate Warden,
ORTEGA – Former Captain,
THREE UNKNOWN SPECIAL INVESTIGATION SUPERVISORS,
ONE UNKNOWN SPECIAL HOUSING UNIT LIEUTENANT,
MASOPUST – Former Special Housing Unit Lieutenant,
FIVE UNKNOWN UNIT MANAGERS,
FIVE UNKNOWN CASE MANAGERS, and
FIVE UNKNOWN COUNSELORS,

Defendants,

**ORDER DIRECTING CLERK TO COMMENCE CIVIL ACTION AND
DIRECTING PLAINTIFF TO CURE DEFICIENCY**

Plaintiff Charles Whalen has submitted a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. §1915. The court has determined that the document is deficient as described in this order. Notwithstanding the deficiencies, the clerk of the court will be directed to commence a civil action. Although the *in forma pauperis* motion lists two Plaintiffs, only Mr. Whalen has signed the motion. Therefore, Andres Gonzalez will not be considered a Plaintiff in this action and Mr. Whalen will be

directed to cure the following if he wishes to pursue his claims. Any papers that Mr. Whalen files in response to this order must include the civil action number on this order.

28 U.S.C. § 1915 Motion and Affidavit:

- (1) is not submitted
- (2) is missing affidavit
- (3) is missing certified copy of prisoner's trust fund statement for the 6-month period immediately preceding this filing
- (4) is missing required financial information
- (5) is missing an original signature by the prisoner
- (6) is not on proper form (must use the court's current form)
- (7) names in caption do not match names in caption of complaint, petition or habeas application
- (8) An original and a copy have not been received by the court.
Only an original has been received.
- (9) other _____

Complaint, Petition or Application:

- (10) is not submitted
- (11) is not on proper form (must use the court's current form)
- (12) is missing an original signature by the prisoner
- (13) is missing page nos. _____
- (14) uses et al. instead of listing all parties in caption
- (15) An original and a copy have not been received by the court. Only an original has been received.
- (16) Sufficient copies to serve each defendant/respondent have not been received by the court.
- (17) names in caption do not match names in text
- (18) other _____

Accordingly, it is

ORDERED that the clerk of the court commence a civil action in this matter. It is

FURTHER ORDERED that Plaintiff Charles Whalen cure the deficiencies designated above **within thirty (30) days from the date of this order**. Any papers that Mr. Whalen files in response to this order must include the civil action number on this order. It is

FURTHER ORDERED that the clerk of the court mail to Mr. Whalen, together

with a copy of this order, two copies of the following forms: Prisoner Complaint. It is

FURTHER ORDERED that, if Mr. Whalen fails to cure the designated deficiencies **within thirty (30) days from the date of this order**, the action will be dismissed without further notice. The dismissal shall be without prejudice.

DATED at Denver, Colorado, this 25th day of April, 2006.

BY THE COURT:



BOYD N. BOLAND
United States Magistrate Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

CERTIFICATE OF MAILING

Civil Action No. **06 - CV - 00809** -B NB

Charles Whalen
Prisoner No. 06247-073
USP - Lewisburg
P.O. Box 1000
Lewisburg, PA 17837

I hereby certify that I have mailed a copy of the **ORDER** and two copies of the **Prisoner Complaint** to the above-named individuals on 4-27-06

GREGORY C. LANGHAM, CLERK

By:  _____
Deputy Clerk