

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**FILED**
UNITED STATES DISTRICT COURT
DENVER, COLORADO

JUN 7 2007

Civil Action No. 06-cv-01214-BNB

GREGORY C. LANGHAM
CLERK

LOREN R. LUSERO,

Plaintiff,

v.

JOHN WELT, Correctional Lieutenant,
PA. PURDUE, Correctional Lieutenant,
CLYDE STAHL, Correctional Chairperson, CM 111,
CORRECTIONAL OFFICER, of Delta Correctional Facility of Housing Unit-5 (3rd Shift),
Nov. 23, 2005,
"CAPTAIN," Delta Correctional Facility (3rd Shift), Nov. 23, 2005,
DEAN CONROY, Colorado Assistant Attorney General,
METZGER, J., Colorado Appellate Judge, Colorad [sic] District Judge, and
"CRG," of Delta County, Colorado,

Defendants.

ORDER DENYING MOTION FOR TEMPORARY RESTRAINING ORDER

Plaintiff Loren R. Lusero is a prisoner in the custody of the Colorado Department of Corrections who currently is incarcerated at the Colorado State Penitentiary in Cañon City, Colorado. He has filed *pro se* an amended civil rights complaint.

On May 31, 2007, Mr. Lusero submitted a motion for a temporary restraining order. The Court must construe the motion liberally because Mr. Lusero is a *pro se* litigant. *See Haines v. Kerner*, 404 U.S. 519, 520-21 (1972); *Hall v. Bellmon*, 935 F.2d 1106, 1110 (10th Cir. 1991). However, the Court should not act as a *pro se* litigant's advocate. *Hall*, 935 F.2d at 1110. For the reasons stated below, the liberally construed motion for a temporary restraining order will be denied.

Mr. Lusero alleges that the prison library staff is denying him photocopies of documents and is failing to provide him with his requested research. On the basis of these allegations, he contends that his access to the courts is being denied. The access-to-the-courts claim lacks merit unless Mr. Lusero suffered an actual injury in his ability to file a nonfrivolous lawsuit. **See *Lewis v. Casey***, 518 U.S. 343, 349-55 (1996). Plaintiff fails to allege any facts that he actually was impeded in his ability to file a nonfrivolous lawsuit.


A party seeking a temporary restraining order must demonstrate clearly, with specific factual allegations, that immediate and irreparable injury will result unless a temporary restraining order is issued. **See** Fed. R. Civ. P. 65(b). Mr. Lusero fails to allege any facts that demonstrate he is facing immediate and irreparable injury. Therefore, the liberally construed motion for a temporary restraining order will be denied. Accordingly, it is

ORDERED that the motion for a temporary restraining order that Plaintiff Loren R. Lusero submitted and the Court filed on May 31, 2007, is denied. It is

FURTHER ORDERED that the motion for default that Mr. Lusero also filed on May 31, 2007, is denied.

DATED at Denver, Colorado, this 6 day of June, 2007.

BY THE COURT:


ZITA L. WEINSHIENK, Senior Judge
United States District Court

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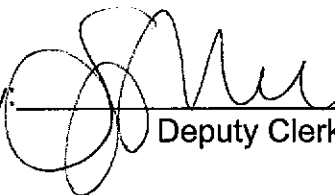
CERTIFICATE OF MAILING

Civil Action No. 06-cv-01214-BNB

Loren R. Lusero
Prisoner No. 124354
CSP – A1-22
PO Box 777
Cañon City, CO 81215- - 0777

I hereby certify that I have mailed a copy of the **ORDER** to the above-named individuals on 6-7-07

GREGORY C. LANGHAM, CLERK

By:  _____
Deputy Clerk