

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Magistrate Judge Boyd N. Boland

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

AUG 1 - 2006

GREGORY C. LANGHAM
CLERK

Civil Action No. 06-cv-01452

MR. FRED FRAZONE,

Plaintiff,

v.

STATE OF COLORADO,
GOVERNOR OWENS, et al., Denver, CO,
WARDEN MILYARD, S.C.FAC., Sterling, CO,
LT. BRIAN WHITNEY, S.C.FAC., Sterling, CO,
LT. VIDANA, S.C.FAC., Kitchen, Sterling, CO,
DR. FORTUNATO, S.C.F. Head of Medical Unit, Sterling, CO,
LT. LUECK, S.C.F., Ex Case Mgr.,
MR. ALLEN STANLEY, Chairman of Colorado, Parole Board, Pueblo, CO 81003,
LT. BASINGER, Arrowhead C.C., Ex Case Mgr., Canon City, CO,
SGT. HARRIS, Arrowhead C.C., Canon City, CO,
C/O HARDING, Arrowhead C.C., Canon City, CO, Unit C,
LT. SCRUGGS, Crowley C.F., Crowley, C.F.CO., Ex Case Mgr.,
PHYSICIAN [sic] PRACTITIONER MR. LAURANCE, Crowley, C.F. CO.,
DR. BERLIN, Colorado Western M.M., Grand Junction, CO 81501,
EX-PAROLE OFFICER HOWARD PRICE, Parole Office, Grand Junction, CO,
RICHARD L. CLINEFIELTER, D.R.D.C. Manager, Denver, CO, and
C/O WALTER, S.C.F.,

Defendants.

ORDER

Section 455, 28 U.S.C., requires that a judge disqualify himself where "his impartiality might reasonably be questioned." The provision is self-enforcing on the part of the judge.

United States v. Gigax, 605 F.2d 507, 511 (10th Cir. 1979). "In determining whether a judge should recuse under § 455(a), the issue is not whether the judge is impartial in fact, but rather,

whether a reasonable man might question his impartiality.” Id.; Webbe v. McGhie Land Title Co., 549 F.2d 1358, 1361 (10th Cir. 1977).

I have concluded that a basis exists in this case upon which my impartiality might reasonably be questioned. Accordingly,

IT IS ORDERED that I hereby disqualify myself from further action in this case. The Clerk of the Court is directed to cause the case to be reassigned to another magistrate judge.

Dated August 1, 2006.

BY THE COURT:

s/ Boyd N. Boland
United States Magistrate Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

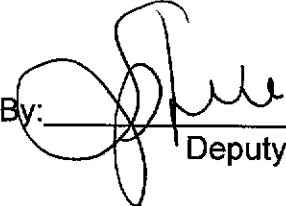
CERTIFICATE OF MAILING

Civil Action No. 06-cv-01452-BNB

Mr. Fred F. Franzone
Reg. No. 96944
Sterling Correctional Facility
PO Box 6000
Sterling, CO 80751

I hereby certify that I have mailed a copy of the **ORDER** to the above-named individuals on 8-1-06

GREGORY C. LANGHAM, CLERK

By:  _____
Deputy Clerk