

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 09-cv-00278-CMA-MEH

LUKE PREACHER,
MIKEAL GLENN STINE,
ROBERT UTLEY, and
DAWANE MALLETT,

Plaintiffs,

v.

RON WILEY, Warden ADX-Florence,
B. A. BLEDSOE, Warden USP Marion,
J. FOX, Associate Warden ADX-Florence,
MARK COLLINS, Unit Manager ADX-Florence,
GEORGE KNOX, Counselor ADX-Florence,
J. MANLEY, Lieutenant ADX-Florence,
TINA SUDLOW, Case Manager ADX-Florence,
CORR. OFFICER MANSPEAKER, ADX-Florence,
CORRECTIONAL OFFICER BREAM, ADX-Florence,
J. D. WALTERS, Lieutenant ADX-Florence,
CORR. OFFICER BARBARA BATULIS, ADX-Florence,
LIEUTENANT C. RIVERS,
CAPTAIN KRIST, and
JOHN DOE, Unknown Person,

Defendants.

ORDER

Pending before the Court is Defendants' Motion to Stay Pending Filing of Operative Complaint [[filed August 18, 2009; docket #238](#)]. On the same day the Defendants filed the within motion, the Plaintiffs tendered a Third Amended Complaint [[docket #240](#)].

Pursuant to this Court's August 3, 2009 order, the Plaintiffs were to submit a Third Amended Complaint for approval of proper format and signatures before proceeding with the case. The Court has reviewed the tendered Third Amended Complaint and approves it for filing **only** as follows:

1. The Third Amended Complaint was properly filed and signed by Plaintiffs Luke Preacher, Mikeal Stine, Robert Utley and Dawane Mallett. Therefore, this case will proceed with these four named Plaintiffs.
2. Former Plaintiffs Damani Nantambu and George Scalf did not sign the Third Amended Complaint. Rather, Luke Preacher signed on their behalf, which he may not do. The Court construes the omission of Plaintiffs Nantambu and Scalf from the Third Amended Complaint as voluntary dismissals pursuant to Fed. R. Civ. P. 41(a)(1)(A). Therefore, Plaintiffs Damani Nantambu and George Scalf are **dismissed without prejudice** from this case.
3. The Court approves the Third Amended Complaint for filing pursuant only to Fed. R. Civ. P. 8 and Fed. R. Civ. P. 11. The Court makes no findings as to whether the claims alleged in the Complaint are proper pursuant to any other rule, statute or law.

With the approval of the Third Amended Complaint for filing, the Plaintiffs are warned, once again, that they may not file any request seeking relief from the Court on behalf of each other. Any violations of this order may be grounds for sanctions against the Plaintiffs, including dismissal of the case.

Moreover, the Plaintiffs shall not file any motion or pleading containing inauthentic or improper signatures. If the Court determines that any filing by the Plaintiffs contains a false or forged signature, this Court will recommend dismissal of the case without further notice.

In light of this order, Defendants' Motion to Stay is **denied as moot**. The Defendants currently named in the Third Amended Complaint are the same as those named in the Second Amended Complaint; therefore, Defendants who have been properly served and/or who have waived

service in this action shall file an answer or other response to the Third Amended Complaint **on or before September 8, 2009.**

Dated at Denver, Colorado this 25th day of August, 2009.

BY THE COURT:

A handwritten signature in black ink that reads "Michael E. Hegarty". The signature is written in a cursive style with a large initial 'M' and a stylized 'H'.

Michael E. Hegarty
United States Magistrate Judge