

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

**FILED**  
UNITED STATES DISTRICT COURT  
DENVER, COLORADO

MAY 26 2009

GREGORY C. LANGHAM  
CLERK

Civil Action No. '09 - CV - 01196 *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.)

NATHAN JERARD DUNLAP,  
MATTHEW FRANSISCO ALFARO, and  
RYAN MERRITT,

Plaintiffs,

v.

ARISTEDES ZAVARAS, individually, and in his official capacity as Executive Director of the Colorado Department of Corrections,  
SUSAN JONES, individually, and in her official capacity as the Warden of the Colorado State Penitentiary,  
D. COMBS, whose true name is unknown, individually, and in his official capacity as a hearing committee member,  
K. MOORE, whose true name is unknown, individually, and in her official capacity as a hearing committee member, and  
J. OLSON, whose true name is unknown, individually, and in his official capacity as hearing committee chairperson,

Defendants.

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

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Plaintiffs have submitted "Plaintiffs' Motion for Preliminary Injunction," a "Memorandum of Law in Support of Plaintiffs' Motion for Preliminary Injunction," "Plaintiffs' Notice of Associated Cases," "Plaintiffs' Motion Requesting Class Action Certification," and a "Prisoners Complaint." Plaintiff Nathan Jerard Dunlap also has submitted "Plaintiffs' Motion Requesting an Order in Regards to the Payment of Filing Fee," "Plaintiffs' Motion for Appointment of Counsel," and a "Prisoner's Motion and

Affidavit for Leave to Proceed Pursuant to 28 U.S.C. Section 1915.” Plaintiff Matthew Fransisco Alfaro also has submitted a “Prisoner’s Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. Section 1915.” As part of the court’s review pursuant to D.C.COLO.LCivR 8.2, the court has determined that the submitted documents are deficient as described in this order. Notwithstanding the deficiencies, the clerk of the court will be directed to commence a civil action. Plaintiffs will be directed to cure the following if they wish to pursue their claims. Any papers that Plaintiffs file 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 (Plaintiff Ryan Merritt did not submit an individual motion)
- (2)  is missing affidavit
- (3)  is missing certified copy of prisoner's trust fund statement for the 6-month period immediately preceding this filing (Plaintiff Ryan Merritt did not submit an account statement)
- (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 Plaintiffs cure the deficiencies designated above **within thirty (30) days from the date of this order**. Any papers that Plaintiffs file 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 each named Plaintiff, together with a copy of this order, two copies of the following form(s): Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. §1915; Prisoner Complaint.

It is

FURTHER ORDERED that any named Plaintiff who fails to cure the designated deficiencies **within thirty (30) days from the date of this order** will be dismissed as a party to this action without further notice. The dismissal shall be without prejudice.

DATED at Denver, Colorado, this 22<sup>d</sup> day of May, 2009.

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. '09 - CV - 01196


Nathan Jerard Dunlap  
Prisoner No. 89148  
Colorado State Penitentiary  
PO Box 777  
Cañon City, CO 81215- 0777

Matthew Fransisco Alfaro  
Prisoner No. 110191  
Colorado State Penitentiary  
PO Box 777  
Cañon City, CO 81215- 0777

Ryan Merritt  
Prisoner No. 96531  
Colorado State Penitentiary  
PO Box 777  
Cañon City, CO 81215- 0777

I hereby certify that I have mailed a copy of the **ORDER and two copies of the Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. §1915 and Prisoner Complaint forms** to the above-named individuals on 5/26/09

GREGORY C. LANGHAM, CLERK

By:  Deputy Clerk