

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 09-cv-02380-BNB

RANDY E. KEYES,

Plaintiff,

v.

J. M. WILNER, Warden, FCI-Florence, et al.,
DR. KRICK, Staff Psychiatrist, DAP Coordinator, and
J. STUCKS, Drug Treatment Specialist (DTS),

Defendants.

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

DEC 03 2009

GREGORY C. LANGHAM
CLERK

ORDER TO DISMISS IN PART AND TO DRAW CASE
TO A DISTRICT JUDGE AND TO A MAGISTRATE JUDGE

Plaintiff Randy E. Keyes is a prisoner in the custody of the United States Bureau of Prisons at the Federal Correctional Institution in Florence, Colorado. Mr. Keyes initiated this action by filing *pro se* a Prisoner Complaint asserting statutory and constitutional claims pursuant to *Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics*, 403 U.S. 388 (1971). On October 27, 2009, Magistrate Judge Boyd N. Boland ordered Mr. Keyes to file an amended complaint that complies with the pleading requirements of Rule 8 of the Federal Rules of Civil Procedure. On November 13, 2009, Mr. Keyes filed an amended Prisoner Complaint.

The Court must construe the amended complaint liberally because Mr. Keyes is not represented by an attorney. *See Haines v. Kerner*, 404 U.S. 519, 520-21 (1972); *Hall v. Bellmon*, 935 F.2d 1106, 1110 (10th Cir. 1991). If the amended complaint reasonably can be read "to state a valid claim on which the plaintiff could prevail, [the

Court] should do so despite the plaintiff's failure to cite proper legal authority, his confusion of various legal theories, his poor syntax and sentence construction, or his unfamiliarity with pleading requirements." *Hall*, 935 F.2d at 1110. However, the Court should not be an advocate for a *pro se* litigant. *See id.*

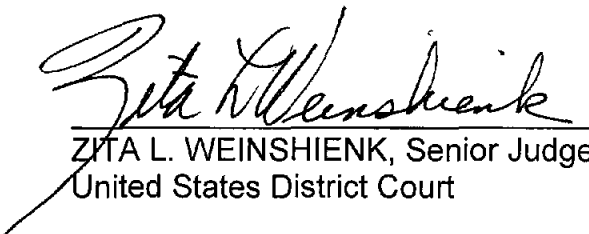
Mr. Keyes asserts ten claims for relief in the amended complaint alleging that Defendants Robert Krick and Jan Stucks violated his rights. However, although Mr. Keyes lists a third Defendant, J. M. Wilner, in the caption of the amended complaint, Mr. Keyes does not assert any of his claims against Defendant Wilner. Therefore, Defendant Wilner will be dismissed as a party to this action. The Court will not address the merits of Mr. Keyes' claims against Defendants Krick and Stucks at this time. Instead, the action will be drawn to a district judge and to a magistrate judge as provided in D.C.COLO.LCivR 8.2D because the Court has completed its review pursuant to D.C.COLO.LCivR 8.2C,. Accordingly, it is

ORDERED that Defendant J. M. Wilner is dismissed as a party to this action because no claims are asserted against him. It is

FURTHER ORDERED that this case shall be drawn to a district judge and to a magistrate judge.

DATED at Denver, Colorado, this 3 day of December, 2009.

BY THE COURT:


ZITA L. WEINSHIENK, Senior Judge
United States District Court

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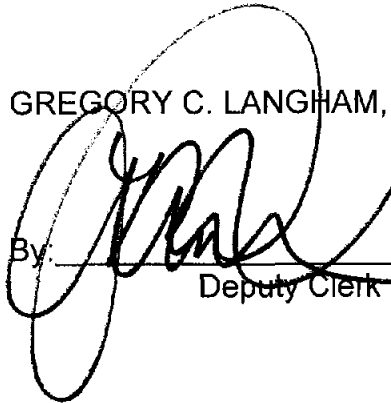
CERTIFICATE OF MAILING

Civil Action No. 09-cv-02380-BNB

Randy E. Keyes
Reg No. 33534-013
FCI - Florence
P.O. Box 6000
Florence, CO 81226-6000

I hereby certify that I have mailed a copy of the **ORDER** to the above-named individuals on 12/3/09

GREGORY C. LANGHAM, CLERK

By: 
Deputy Clerk