

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

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

MAR 22 2010

Civil Action No. '10 - CV - 00664 Bnb GREGORY C. LINDHAM  
CLERK  
(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.)

KEVIN MARK BRETZ, #46584,  
JERRY DeWAYNE GRADY, #93047,  
DANIEL AGER, #82523, and  
GARY LYNN ARELLANO, #69948,

Plaintiffs,

v.

GOVE[R]NOR BILL RITTER,  
EXEC. DIR. ARISTEDES W. ZAVARAS, C.D.O.C.,  
DR. PAULA FRANTZ, Holistic Practice,  
MS. BEVERLY DOWIS, Medical Admin., S.C.F.,  
MS. LOVELL, Medical Assist., S.C.F.  
P.A. BRIAN WEBSTER, S.C.F.,  
P.A. JOANN STOCK, S.C.F.,  
DR. FORTUNATO, S.C.F.,  
DR. GOLDSMITH, M.D., S.C.F.,  
DR. DARREL T. FENTON, D.O., Contract Doctor, S.C.F.,  
DR. KOONS, Contract Doctor, S.C.F.,  
WARDEN KEVIN MILYARD, S.C.F., and  
ASSIST. WARDEN CHAPPLAINE, S.C.F.,

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 a "42 USC § 1983 Prisoners Complaint" that only Kevin Mark Bretz has signed. Plaintiffs have failed either to pay the \$350.00 filing fee or to file a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C.

§ 1915 for each Plaintiff. As part of the court's review pursuant to D.C.COLO.LCivR 8.2, the court has determined that the submitted document is 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)  are not submitted (each Plaintiff must submit a completed form)
- (2)  is missing affidavit
- (3)  are missing certified copies of prisoners' trust fund statements for the 6-month period immediately preceding this filing (from each Plaintiff)
- (4)  is missing certificate showing current balance in prison account
- (5)  is missing required financial information
- (6)  is missing an original signature by the prisoner
- (7)  is not on proper form (must use the court's current form)
- (8)  names in caption do not match names in caption of complaint, petition or habeas application
- (9)  An original and a copy have not been received by the court. Only an original has been received.
- (10)  other: Motions are necessary only if \$350.00 filing fee is not paid in advance.

**Complaint, Petition or Application:**

- (11)  is not submitted
- (12)  is not on proper form (must use the court's current form)
- (13)  is missing original signatures by the prisoners (all Plaintiffs must sign)
- (14)  is missing page nos. \_\_\_
- (15)  uses et al. instead of listing all parties in caption
- (16)  An original and a copy have not been received by the court. Only an original has been received.
- (17)  Sufficient copies to serve each defendant/respondent have not been received by the court.
- (18)  names in caption do not match names in text
- (19)  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 Plaintiff, together with a copy of this order, two copies of the court-approved form for filing a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915. It is

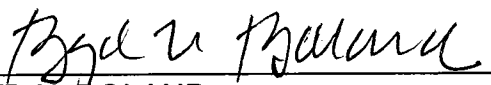
FURTHER ORDERED that the clerk of the court mail to each Plaintiff, together with a copy of this order, two copies of the court-approved form to be used in filing an amended Prisoner Complaint. It is

FURTHER ORDERED that each Plaintiff must submit a properly completed Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 and that all Plaintiffs must **jointly submit one amended complaint** on the court-approved form that **all Plaintiffs have signed**. It is

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

DATED at Denver, Colorado, this 11<sup>th</sup> day of March, 2010.

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. '10 - CV - 00664

Kevin Mark Bretz  
Prisoner No. 46584  
Sterling Correctional Facility  
PO Box 6000  
Sterling, CO 80751

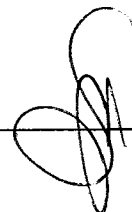
Jerry DeWayne Grady  
Prisoner No. 93047  
Sterling Correctional Facility  
PO Box 6000  
Sterling, CO 80751

Daniel Ager  
Prisoner No. 82523  
Sterling Correctional Facility  
PO Box 6000  
Sterling, CO 80751

Gary Lynn Arellano  
Prisoner No. 69948  
Sterling Correctional Facility  
PO Box 6000  
Sterling, CO 80751

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 3/22/10

GREGORY C. LANGHAM, CLERK

By:  Deputy Clerk