

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 12-cv-00328-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.)

SHANNON R. SMITH, and
KALEO SMITH,

Plaintiffs,

v.

SOCIAL SECURITY ADMINISTRATION,

Defendant.

ORDER DIRECTING PLAINTIFFS TO CURE DEFICIENCIES

Plaintiffs have submitted a Complaint. As part of the court's review pursuant to D.C.COLO.LCivR 8.1, the court has determined that the submitted document is deficient as described in this order. The court notes initially that Plaintiff Shannon R. Smith lacks standing to represent her minor son, Plaintiff Kaleo Smith, in this action. ***See Meeker v. Kercher***, 782 F.2d 153, 154 (10th Cir. 1986) (per curiam). Under Fed. R. Civ. P. 17(c) and 28 U.S.C. § 1654 (1994), a minor child, "cannot bring suit through a parent acting as next friend if the parent is not represented by an attorney." ***Id.***; ***accord Osei-Afriyie ex rel. Osei-Afriyie v. Medical College of Pa.***, 937 F.2d 876, 882-83 (3d Cir. 1991); ***Cheung v. Youth Orchestra Found. of Buffalo, Inc.***, 906 F.2d 59, 61 (2d Cir. 1990). Plaintiff Shannon R. Smith is not represented by an attorney. Therefore, she may not represent her minor son in this 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.

Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915:

- (1) is not submitted
- (2) is not on proper form (must use the court's current form)
- (3) is missing original signature by Plaintiffs
- (4) is missing affidavit
- (5) affidavit is incomplete
- (6) affidavit is not notarized or is not properly notarized
- (7) names in caption do not match names in caption of complaint, petition or application
- (8) other: Motion is necessary only if \$350.00 filing fee is not paid in advance.

Complaint or Petition:

- (9) is not submitted
- (10) is not on proper form (must use the court's current form)
- (11) is missing an original signature by the Plaintiffs
- (12) is incomplete: missing pages 2 - 5.
- (13) uses et al. instead of listing all parties in caption
- (14) names in caption do not match names in text
- (15) addresses must be provided for all defendants/respondents in "Section A. Parties" of complaint, petition or habeas application
- (16) other _____

Accordingly, it is

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 Plaintiffs shall obtain the court-approved Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 and Complaint forms, along with the applicable instructions, at www.cod.uscourts.gov. It is

FURTHER ORDERED that, if Plaintiffs fail to cure the designated deficiencies **within thirty (30) days from the date of this order,** the complaint and the action will

be dismissed without further notice. The dismissal shall be without prejudice.

DATED February 10, 2012, at Denver, Colorado.

BY THE COURT:

s/ Boyd N. Boland
United States Magistrate Judge