

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

Civil Action No. 13-cv-01120-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.)

BILLY VON HALLEY

Plaintiff,

v.

SERGEANT BARTSCH, personal capacity, and
EX. DIRECTOR OF D.O.C. TOM CLEMENTS,

Defendants.

ORDER DIRECTING PLAINTIFF TO CURE DEFICIENCIES

Plaintiff, a state prisoner in Colorado, has submitted an “Affidavit and Incident Report of Retaliatory and Staff Misconduct . . .” (ECF No. 1) in which he complains that prison officials have violated his constitutional rights. Plaintiff also has submitted a letter to the court (ECF No. 3) asking that the affidavit be filed as a miscellaneous filing. Plaintiff may not pursue his constitutional claims in a miscellaneous action. Instead, if he wishes to pursue his constitutional claims in this court, he must pursue those claims in a regular civil action. Therefore, the instant civil action has been commenced. As part of the court’s review pursuant to D.C.COLO.LCivR 8.2, the court has determined that the documents are deficient as described in this order. Plaintiff will be directed to cure the following if he wishes to pursue his claims. Any papers that Plaintiff files 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
- (2) is missing affidavit
- (3) is missing certified copy of prisoner's trust fund statement for the 6-month period immediately preceding this filing
- (4) is missing certificate showing current balance in prison account
- (5) is missing required financial information
- (6) is missing authorization to calculate and disburse filing fee payments
- (7) is missing an original signature by the prisoner
- (8) is not on proper form (must use the court's current form)
- (9) names in caption do not match names in caption of complaint, petition or habeas application
- (10) other: motion is 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
- (13) is missing an original signature by the prisoner
- (14) is missing page nos. ____
- (15) uses et al. instead of listing all parties in caption
- (16) names in caption do not match names in text
- (17) addresses must be provided for all defendants/respondents in "Section A. Parties" of complaint, petition or habeas application
- (18) other: _____.

Accordingly, it is

ORDERED that Plaintiff cure the deficiencies designated above **within thirty (30) days from the date of this order.** Any papers that Plaintiff files in response to this order must include the civil action number on this order. It is

FURTHER ORDERED that Plaintiff shall obtain the court-approved Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 and Prisoner Complaint forms (with the assistance of his case manager or the facility's legal assistant), along with the applicable instructions, at www.cod.uscourts.gov. It is

FURTHER ORDERED that, if Plaintiff fails to cure the designated deficiencies **within thirty (30) days from the date of this order**, the action will be dismissed

without further notice. The dismissal shall be without prejudice.

DATED April 26, 2013, at Denver, Colorado.

BY THE COURT:

s/ Boyd N. Boland
United States Magistrate Judge