

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Senior District Judge Richard P. Matsch**

Date: February 27, 2014
Courtroom Deputy: J. Chris Smith
FTR Technician: Kathy Terasaki

Civil Action No. 13-cv-01744-RPM

HARLEY QUINT YOUNG, and
SHARON YOUNG,

Plaintiffs,

Elisabeth L. Owen
Thomas B. Kelly
Nicole B. Godfrey

v.

RICK RAEMISCH, Executive Director of CDOC, official capacity; Jacqueline N.R. Fredericks
KEVIN MILYARD,
former Warden SCF and former Deputy Director, individual capacity;
JAMES FALK, Warden, SCF, official capacity;
TIMOTHY USRY, Administrative Services Manager, SCF, official capacity;
BERNADETTE SCOTT, Mail Room Supervisor, SCF, individual and official capacities;
IRIS CHRISTIANS, Mail Room Sergeant, individual and official capacities;
MICHELE WINGERT, Captain, SCF, individual and official capacities;

Defendants.

COURTROOM MINUTES

Hearing on Motion to Dismiss

10:30 a.m. Court in session.

ORDERED: Appearance of Elisabeth L. Owen for plaintiffs is accepted and will be reflected as such on CM/ECF for notice and service.

Court's preliminary remarks.

Ms. Owen answers questions asked by the Court.

Ms. Owen states plaintiffs are not challenging the constitutionality of the regulations cited but rather their interpretation and implementation with respect to the case facts indicated in the Amended Complaint.

Ms. Owen further states, based on the Court's stated rationale with respect to injunctive relief, plaintiffs would agree to dismiss the individual defendants in their official capacity.

Argument by Ms. Fredericks (First Amendment Claim).

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ORDERED: Defendants' Motion to Dismiss Amended Complaint under the First Amendment is denied.

Argument by Ms. Owen (Fourteenth Amendment).
Argument by Ms. Fredericks.
Further argument by Ms. Owen.
Statement by Mr. Kelly.

ORDERED: Defendants' Motion to Dismiss Amended Complaint under the Fourteenth Amendment is taken under advisement.

Argument by Ms. Owen (qualified immunity personal participation).

ORDERED: Defendants' Motion to Dismiss Amended Complaint with respect to qualified immunity and personal participation is taken under advisement.

**ORDERED: Motion to Dismiss [1] Complaint [8] is moot.
Motion to Dismiss [9] Amended Complaint [15], is denied in part and taken under advisement in part as stated on record
Defendant's Milyard's Motion to Join Motion to Dismiss Amended Complaint [24], is granted.
Individual defendants in their official capacity are dismissed.**

11:25 a.m. Court in recess.

Hearing concluded. Total time: 55 min.