

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 15-cv-02728-GPG

**(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.)**

JOSEPH FOX SALE, ADOC # 063416, aka Fox Joseph Salerno, aka Fox J. Salerno<sup>1</sup>

Plaintiff,

v.

JENNIFER ANDERS, Law Librarian,  
CASTELLANO, Doctor, Medical Committee,  
JOHN CHAPDELAINE, CDOC Warden,  
CHRISTIANS, SGT, Mail Room Supervisor,  
CLARY, Segregation SGT,  
RAYMOND COLE, Disciplinary Lt.,  
ANTHONY DECESARO, Grievance Responder,  
JAMES FALK, CDOC Warden,  
FARMER, Doctor (DDS),  
CHASE FELZIEN, Housing Lt.,  
DOLF HALL, Medical Committee,  
JONATHON JOHNSON, Guard,  
KENNEDY, Housing Lt.,  
LADD, Housing Unit Sgt.,  
KATHY MICKEY, Medical Committee,  
STEPHEN MORRIS, ADOC Deputy Warden,  
MICHELLE NYCZ, Disciplinary Appeals Officer,  
RICK RAEMISCH, CDOC Executive Director,  
CHARLES RYAN, ADOC Director,  
SCHERBARTH, Associate Warden,

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<sup>1</sup> Plaintiff states and has provided an inmate trust account statement that indicates his inmate number is 063416. The Court has reviewed both the Public Access to Court Electronic Records (PACER) and the Arizona Department of Corrections (ADOC) Website. The Court found on the ADOC Website that the name of the prisoner who is assigned Inmate No. 063416 is Fox J. Salerno. Also PACER indicates on the Docket in many prisoner cases filed in the United States District Court for the District of Arizona that a Mr. Fox Joseph Salerno, who is an ADOC inmate also has Inmate No. 063416. Based on these records, Mr. Joseph Fox Sale appears to be the same person as Mr. Fox Joseph Salerno.

BERNADETTE SCOTT, Lt. Mail Room Supervisor,  
JAMIE SOURCIE, Medical Supervisor,  
DARNEY SWINGLE, Disciplinary Lt.,  
JASON WALLACE, Disciplinary Lt., and  
WESLEY WILSON, Major,

Defendants.

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**ORDER DIRECTING PLAINTIFF TO CURE DEFICIENCIES**

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Plaintiff Joseph Fox Sale, is a prisoner in the custody of the Arizona Department of Corrections (ADOC) and is currently incarcerated at an Arizona prison facility in Florence, Arizona. On December 16, 2015, Plaintiff, acting *pro se*, initiated this action by filing a Prisoner Complaint and a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. §1915.

As part of the Court's review pursuant to D.C.COLO.LCivR 8.1(b), the Court has determined that the submitted documents are deficient as described in this Order. Plaintiff will be directed to cure the following if he wishes to pursue his claims in this Court in this action. Any papers that Plaintiff files in response to this Order must include the civil action number noted above in the caption of this Order.

The Court also notes that Plaintiff has identified his ADOC Inmate No. as 063416. In *Salerno v. Patton, et al.*, No. 13-01560-PHX-ROS (LOA), (D. Ariz. January 3, 2014), a Mr. Fox Joseph Salerno, indicated his inmate number also is 063416. Mr. Salerno was sanctioned with 28 U.S.C. § 1915(g) filing restrictions in Case No. 13-01560-PHX-ROS(LOA) at ECF No. 42. It appears that in this case Plaintiff may be using another prisoner's inmate number or fraudulently stating his name as Joseph Fox Sale or both.

Furthermore, on Page 26 of the Complaint, where Plaintiff provides information about previous lawsuits, in the E. Previous Lawsuits section, he carefully refrains from stating whether he has filed any cases in the State of Arizona. The Court-approved form used in this Court for prisoner complaints requires a prisoner to state if he has ever filed any lawsuits in any federal district or state court while he has been incarcerated. Plaintiff has failed to provide this information in the Complaint.

Providing fraudulent information to the Court is an abuse of the judicial system. Plaintiff is warned that this Court will not tolerate abusive filings or the abuse of the federal court system. Plaintiff, therefore, is directed to submit an affidavit in which he attests to what his name is and associated ADOC inmate number. Plaintiff also is to complete the Court-approved Prisoner Complaint form and provide true and accurate information regarding any and all cases he has filed in both federal and state courts.

The noted deficiencies are as follows.

**28 U.S.C. § 1915 Motion and Affidavit:**

- (1) \_\_\_ is not submitted
- (2) \_\_\_ is missing affidavit
- (3) \_\_\_ is not on proper form (Must use Court-approved form revised 10-1-12)
- (4) X is missing certified copy of prisoner's trust fund statement for the 6-month period immediately preceding this filing
- (5) \_\_\_ is missing certificate showing current balance in prison account
- (6) \_\_\_ is missing authorization to calculate and disburse filing fee payments
- (7) \_\_\_ is missing an original signature by the prisoner
- (8) \_\_\_ other:

**Complaint, Petition or Application:**

- (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 prisoner
- (12) \_\_\_ is missing page nos. \_\_\_
- (13) \_\_\_ uses et al. instead of listing all parties in caption
- (14) \_\_\_ names in caption do not match names in text

- (15) X other: Plaintiff must use a Court-approved form used in filing prisoner complaints in this Court that provides all true and accurate information.

Accordingly, it is

ORDERED that Plaintiff cure the deficiencies designated above **within thirty 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 proper Court-approved Prisoner Complaint form (with the assistance of his case manager or the facility's legal assistant), along with the applicable instructions, at [www.cod.uscourts.gov](http://www.cod.uscourts.gov). Plaintiff must use the Court-approved Prisoner Complaint form when curing the deficiencies. It is

FURTHER ORDERED that if Plaintiff fails to cure the designated deficiencies **within thirty days from the date of this Order** the Complaint and the action will be dismissed without further notice.

DATED: December 17, 2015, at Denver, Colorado.

BY THE COURT:



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Gordon P. Gallagher  
United States Magistrate Judge