

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

Civil Action No. 16-cv-00513-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.)

JAMES FAIRCLOTH, Individually and on behalf of Those Similarly Situated,
EDDIE HIMES, Individually and on behalf of Those Similarly Situated,
CHARLES CAMPBELL, Individually and on behalf of Those Similarly Situated,
MARK BRESQKO, Individually and on behalf of Those Similarly Situated,
FELIZ LUJAN, Individually and on behalf of Those Similarly Situated, and
MARK ATKERSON, Individually and on behalf of Those Similarly Situated,

Plaintiffs,

v.

COLORADO DEPT. OF CORRECTIONS,
RICK RAEMISCH, Individually and on Behalf of Those Similarly Situated,
ROGER WERHOLTZ, Individually and on Behalf of Those Similarly Situated,
TONY CAROCHI, Individually and on Behalf of Those Similarly Situated,
ARISTEDES ZAVARAS, Individually and on Behalf of Those Similarly Situated,
JOE ORTIZ, Individually and on Behalf of Those Similarly Situated,
JOHN SUTHERS, Individually and on Behalf of Those Similarly Situated,
STATE OF COLORADO,
GOVERNOR OF COLORADO, John Hickenlooper, Official and Individual Capacity,
CDOC DIRECTOR OF CLINICAL SERVICES, Official and Individual Capacity,
CDOC CLINICAL SERVICES MANAGEMENT, Official and Individual Capacity,
CDOC OFFICE OF LEGAL SERVICES, [AIC], J. RUSSELL, Official and Individual
Capacity,
CTCF H.S.A., Brian Hoffman, Official and Individual Capacity,
DR. M. WIENPAHL, Official and Individual Capacity, and
DR. BOYD, Official and Individual Capacity,

Defendants.

ORDER DIRECTING PLAINTIFFS TO CURE DEFICIENCIES

On March 1, 2016, Plaintiffs submitted a Prisoner Complaint, a Prisoner’s Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915, a “Motion for Appointment of Counsel for Certified Class of Plaintiff(s),” ECF No. 4, a “Notice and Certification of Constitutional Challenge to a Statute-Notice, Certification, and Intervention,” ECF No. 5, a “Motion for Court Order granting Certified Class of Plaintiff(s),” ECF No. 6, a “Memorandum in Support of Class Certification Entitled Motion for Court Order Granting Certified Class of Plaintiff(s),” ECF No. 7, a “Memorandum of Law in Support of Plaintiffs’ Issues Under the Americans with Disabilities Act and Rehabilitation Act of 1973 that are Likely to Arise on Summary Judgment or at Trial in Support of Prisoner(s) Request for Preliminary and/or Permanent Injunction,” ECF No. 8, and a “Prisoner(s) Application for T.R.O. & Preliminary Injunction Declaratory Injunctive Relief with Primary Incorporated Brief,” ECF No. 9.

As part of the Court’s review pursuant to D.C.COLO.LCivR 8.1, the Court has determined that the documents are deficient as described in this Order. Plaintiffs will be directed to cure the following if they wish to pursue any claims in this Court in this action. 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) X is not submitted (Each plaintiff must submit their **own** § 1915 Motion and Affidavit; Plaintiffs Eddie Himes, Charles Campbell, Mark Bresqko, Felix Lujan, and Mark Atkerson must file their own § 1915 motions)
- (2) is missing affidavit
- (3) X Plaintiffs Eddie Himes, Charles Campbell, Mark Bresqko, Felix Lujan, and Mark Atkerson have not submitted a prisoner trust fund statement that covers the full **6-month period immediately preceding** the date of this filing
- (4) is missing certificate showing current balance in prison account
- (5) is missing required financial information

- (6) X 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
- (9) names in caption do not match names in caption of complaint, petition or habeas application
- (10) other:

Complaint, Petition or Application:

- (11) is not submitted
- (12) X is not on proper form (Must use a Court-approved form used in filing prisoner complaints)
- (13) X is missing an original signature by Plaintiff Charles Campbell
- (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) X other: Pursuant to the Court’s Information and Instructions for Filing a Prisoner Complaint, found on the Court’s website, a complaint, including the form and additional pages used to complete the form, may not exceed thirty pages.

Accordingly, it is

ORDERED that Plaintiffs cure the deficiencies designated above **within thirty 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 a Prisoner Complaint form and Plaintiffs Eddie Himes, Charles Campbell, Mark Bresqko, Felix Lujan, and Mark Atkerson shall obtain a Prisoner’s Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 form, (with the assistance of their case manager or the facility’s legal assistant), along with the applicable instructions, at www.cod.uscourts.gov. A Court-approved form must be used to cure deficiencies. It is

FURTHER ORDERED that, if Plaintiffs fail to cure the designated deficiencies **within thirty days from the date of this Order**, the action will be dismissed without further notice.

DATED March 2, 2016, at Denver, Colorado.

BY THE COURT:

s/ Gordon P. Gallagher
United States Magistrate Judge