

December 21, 2011

UNITED STATES COURT OF APPEALS

Elisabeth A. Shumaker  
Clerk of Court

FOR THE TENTH CIRCUIT

WILLIAM H. SNAVELY, III,

Plaintiff - Appellant,

v.

KANSAS DEPARTMENT OF  
CORRECTIONS; CORRECT CARE  
SOLUTIONS; (FNU)  
MONTGOMERY, Nurse, Lansing  
Correctional Facility, in her official  
and individual capacity as an  
employee of Correct Care Solutions;  
FNU LNU, Male Physical Therapist,  
Lansing Correctional Facility, in his  
official and individual capacity as an  
employee of Correct Care Solutions;  
(FNU) HAVNER, Dentist, Lansing  
Correctional Facility, in his official  
and individual capacity as an  
employee of Correct Care Solutions;  
(FNU) MURRAY, Dentist, Lansing  
Correctional Facility, in his official  
and individual capacity as an  
employee of Correct Care Solutions;  
(FNU) WARE, Doctor, Lansing  
Correctional Facility, in his official  
and individual capacity as an  
employee of Correct Care Solutions;  
(FNU) OKOLZINA, Doctor, Lansing  
Correctional Facility, in his official  
and individual capacity as an  
employee of Correct Care Solutions;  
DAVID MCKUNE, (FNU)  
WINKLEBAUER, Deputy Warden,  
Lansing Correctional Facility, in her  
official and individual capacity as an

No. 11-3304

(D.C. No. 5:05-CV-03468-SAC-KGS)

employee of Kansas Department of Corrections; (FNU) MEDILL, Unit Team Manager, Lansing Correctional Facility, in his official and individual capacity as an employee of Kansas Department of Corrections; (FNU) LNU (2), Unit Team Manager, Lansing Correctional Facility, in his/her official and individual capacity as an employee of Kansas Department of Corrections; (FNU) MANIBUSAN, Unit Team Counselor, Lansing Correctional Facility, in his official and individual capacity as an employee of Kansas Department of Corrections; (FNU) TREXLER, Sergeant, Lansing Correctional Facility, in his official and individual capacity as an employee of Kansas Department of Corrections; (FNU) WAGER, Sergeant, Lansing Correctional Facility, in her official and individual capacity as an employee of Kansas Department of Corrections; (FNU) BAKER, Correctional Officer, Lansing Correctional Facility, in his official and individual capacity as an employee of Kansas Department of Corrections; (FNU) REECE, Correctional Officer, Lansing Correctional Facility in his official and individual capacity as an employee of Kansas Department of Corrections; (FNU) FOSTER, Correctional Officer, Lansing Correctional Facility, in her official and individual capacity as an employee of Kansas Department of Corrections; (FNU) WALTERS,

Correctional Officer, Lansing Correctional Facility, in her official and individual capacity as an employee of Kansas Department of Corrections; KANSAS CORRECTIONAL INDUSTRIES; INDIGENT DEFENSE SERVICES BOARD; IMPACT DESIGN LLC; PROVIDENCE HOSPITAL; (FNU) LAWHORN, Doctor, in his official and individual capacity as an employee of Correct Care Solutions; (FNU) SATCHELL, Doctor, in his official and individual capacity as an employee of Correct Care Solutions; (FNU) LEGLER, Doctor, in his official and individual capacity as an employee of Correct Care Solutions; (FNU) HUAONG, Doctor, in his official and individual capacity as an employee of Correct Care Solutions; SUSSANAH (LNU), Nurse, in her official and individual capacity as an employee of Correct Care Solutions; CHRISTIE (LNU), Nurse, in her official and individual capacity as an employee of Correct Care Solutions; JOHN DOE (1), Heart Doctor/Surgeon, Providence Hospital, in his official and individual capacity; JOHN DOE (2), Nurse, Providence Hospital, in his official and individual capacity; JOHN DOE (3), Chaplain, Lansing Correctional Facility, in their official and individual capacity as an employee of Kansas Department of Corrections; JULIE (LNU), Chaplain Secretary, in her official and individual capacity as an employee of Kansas Department of Corrections;

ROGER WERHOLTZ, Secretary of Corrections, in his official and individual capacity as an employee of Kansas Department of Corrections; BRETT PETERSON, Executive Officer, Lansing Correctional Facility, in his official and individual capacity as an employee of Kansas Department of Corrections; JOHN DOE(4), Shift Captain (times 4), Lansing Correctional Facility, in their official and individual capacity as an employee of Kansas Department of Corrections; JOHN DOE(5), S.O.R.T. Correctional Officer (times 6), Lansing Correctional Facility, in their official and individual capacity as an employee of Kansas Department of Corrections; JOHN DOE(6), Shift Lieutenant, Lansing Correctional Facility, in their official and individual capacity as an employee of Kansas Department of Corrections; (FNU) AYALA-PAGAN, Lieutenant, Lansing Correctional Facility, in her official and individual capacity as an employee of Kansas Department of Corrections; (FNU) GWALTNEY, Lieutenant, Lansing Correctional Facility, in her official and individual capacity as an employee of Kansas Department of Corrections; (FNU) GREEN, Acting Lieutenant, Lansing Correctional Facility, in their official and individual capacity as an employee of Kansas Department of Corrections; (FNU) BLANKENSHIP, Lieutenant, Lansing Correctional Facility, in her official and individual capacity as an employee of Kansas

Department of Corrections; (FNU) WALKER, Unit Team Manager, Lansing Correctional Facility, in their official and individual capacity as an employee of Kansas Department of Corrections; (FNU) NANCE, Unit Team Manager, Lansing Correctional Facility, in his official and individual capacity as an employee of Kansas Department of Corrections; (FNU) BECKHAM, Unit Team Manager, Lansing Correctional Facility, in their official and individual capacity as an employee of Kansas Department of Corrections; JOHN DOE(7), A1 Celhouse, Lansing Correctional Facility, in their official and individual capacity as an employee of Kansas Department of Corrections; (FNU) MILLER, Unit Team Manager, Lansing Correctional Facility, in their official and individual capacity as an employee of Kansas Department of Corrections; (FNU) ARNOLD, Unit Team Manager, Lansing Correctional Facility, in their official and individual capacity as an employee of Kansas Department of Corrections; T. STUART, Unit Team Member, Lansing Correctional Facility, in their official and individual capacity as an employee of Kansas Department of Corrections; J. K. JONES, Grievance Officer, Lansing Correctional Facility, in their official and individual capacity as an employee of Kansas Department of Corrections; (FNU) WALKER, Correctional Officer, Lansing Correctional Facility, in their official and individual capacity as an

employee of Kansas Department of Corrections; (FNU) FOSTER, Correctional Officer, Lansing Correctional Facility, in his official and individual capacity as an employee of Kansas Department of Corrections; (FNU) SCHILLER, Correctional Officer, Lansing Correctional Facility, in his official and individual capacity as an employee of Kansas Department of Corrections; (FNU) JONES, Correctional Officer, Lansing Correctional Facility, in their official and individual capacity as an employee of Kansas Department of Corrections; (FNU) PEARSON, Correctional Officer, Lansing Correctional Facility, in his official and individual capacity as an employee of Kansas Department of Corrections; (FNU) SKIDMORE, Correctional Officer, Lansing Correctional Facility, in his official and individual capacity as an employee of Kansas Department of Corrections; (FNU) RUTLEGE, Correctional Officer, Lansing Correctional Facility, in his official and individual capacity as an employee of Kansas Department of Corrections; (FNU) HARPER, Correctional Officer, Lansing Correctional Facility, in their official and individual capacity as an employee of Kansas Department of Corrections; (FNU) DUNN, Correctional Officer, Lansing Correctional Facility, in his official and individual capacity as an

employee of Kansas Department of Corrections; (FNU) RISLING, Correctional Officer, Lansing Correctional Facility, in their official and individual capacity as an employee of Kansas Department of Corrections; (FNU) ROBINSON, CS, Lansing Correctional Facility, in their official and individual capacity as an employee of Kansas Department of Corrections; (FNU) KOZEL, CS, Lansing Correctional Facility, in his official and individual capacity as an employee of Kansas Department of Corrections; JOHN DOE (8), CS, Lansing Correctional Facility, in their official and individual capacity as an employee of Kansas Department of Corrections; MATT BENNETT, Impact Design, in his official and individual capacity; (FNU) SPEAR, CS, Lansing Correctional Facility, in his official and individual capacity as an employee of Kansas Department of Corrections,

Defendants - Appellees.

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**ORDER**

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Before **LUCERO, MURPHY** and **HARTZ**, Circuit Judges.

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This court lacks jurisdiction over this appeal because all of the claims against all of the parties have not been finally adjudicated. *See* Fed. R. Civ. P. 54(b).

Pursuant to *Lewis v. B.F. Goodrich*, 850 F.2d 641, 645-46 (10th Cir. 1988) (10th Cir. 1988), this court gave the plaintiff an opportunity to obtain either a final judgment or a Rule 54(b) certification from the district court. The plaintiff did not obtain either and the case is proceeding in the district court.

Without a final judgment or a proper Rule 54(b) certification this court lacks jurisdiction. Moreover, only the district court may issue a Rule 54(b) certification and the denial of such certification is not appealable. *See McCall v. Deeds*, 849 F.2d 1259 (9th Cir. 1988); *Makuc v. American Honda Motor Co., Inc.*, 692 F.2d 172, 173-74 (1st Cir. 1982).

Accordingly, this appeal is **DISMISSED**.

Entered for the Court  
ELISABETH A. SHUMAKER, Clerk



Ellen Rich Reiter  
Deputy Clerk/Jurisdictional Attorney