

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 08-cv-02117-BNB

EMMANUEL SANAAH,

Plaintiff,

v.

WARDEN ARREL AND ET. [sic] AL.  
THE PEOPLE OF THE STATE OF COLORADO,  
NURSE DEBB HOWELL,  
WARDEN ARELLANO,  
MAJOR SCOTT GROVER, Life Safety Cordinator [sic] and Maintenance Supervisor,  
MAINTENANCE WORKER LT. BOSLEY,

Defendants.

**FILED**  
UNITED STATES DISTRICT COURT  
DENVER, COLORADO

JAN 8 0 2009

GREGORY C. LANGHAM  
CLERK

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ORDER TO DISMISS IN PART AND TO DRAW CASE  
TO A DISTRICT JUDGE AND TO A MAGISTRATE JUDGE

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Plaintiff, Emmanuel Sanaah, is a prisoner in the custody of the Colorado Department of Corrections (DOC) who currently is incarcerated at the Arkansas Valley Correctional Facility in Crowley, Colorado. He initiated this action by filing *pro se* a Prisoner Complaint.

On October 29, 2008, Magistrate Judge Boyd N. Boland ordered Mr. Sanaah to file an amended complaint that complied with the pleading requirements of Rule 8 of the Federal Rules of Civil Procedure and that asserted each Defendant's personal participation in the alleged constitutional violations. On December 22, 2008, Mr. Sanaah filed an amended civil rights complaint for money damages pursuant to 42

U.S.C. § 1983 and 28 U.S.C. § 1343 (a)(3). He also asserts supplemental jurisdiction pursuant to 28 U.S.C. § 1367.

Mr. Sanaah has been granted leave to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915 (2006) without payment of an initial partial filing fee. Subsection (e)(2)(B) of § 1915 requires a court to dismiss *sua sponte* an action at any time if the action is frivolous. A legally frivolous claim is one in which the plaintiff asserts the violation of a legal interest that clearly does not exist or asserts facts that do not support an arguable claim. *Neitzke v. Williams*, 490 U.S. 319, 324 (1989).

Mr. Sanaah is cautioned that his ability to file a civil action or appeal in federal court *in forma pauperis* pursuant to 28 U.S.C. § 1915 may be barred if he has three or more actions or appeals in any federal court that were dismissed as frivolous, malicious, or for failure to state a claim upon which relief may be granted. *See* 28 U.S.C. § 1915(g). Under § 1915(g), the Court may count dismissals entered prior to the enactment of this statute. *Green v. Nottingham*, 90 F.3d 415, 420 (10th Cir. 1996).

The Court must construe the amended complaint liberally because Mr. Sanaah is representing himself. *See Haines v. Kerner*, 404 U.S. 519, 520-21 (1972); *Hall v. Bellmon*, 935 F.2d 1106, 1110 (10th Cir. 1991). However, the Court should not be the *pro se* litigant's advocate. *See Hall*, 935 F.2d at 1110. For the reasons stated below, the amended complaint will be dismissed in part pursuant to 28 U.S.C. § 1915 as legally frivolous.

Mr. Sanaah alleges that on March 6, 2008, he was injured while showering when a previously replaced showerhead broke off, hit him in the head, and knocked him

unconscious. He complains that the prison maintenance staff neglected to check the showerhead. He also complains that, following his injury, Defendant Nurse Debb Howell, the nurse in the prison's medical department, only washed his wound and gave him a Tylenol, but did not give him stitches. He complains that the wound subsequently became infected, and that he required antibiotics. He maintains that he suffers from permanent scarring, headaches, and dizziness.

Mr. Sanaah is suing improper parties. Defendant named as "Warden Arrel and et. [sic] al." appears to be redundant of the Defendant named as "Warden Arellano," and "et al." merely means "and others." In addition, "The People of the State of Colorado" is not an entity that may be sued. Therefore, the claims asserted against Defendants "Warden Arrel and et. [sic] al." and "The People of the State of Colorado" will be dismissed pursuant to 28 U.S.C. § 1915(e)(2)(B) as legally frivolous.

Accordingly, it is

ORDERED that the amended complaint is dismissed in part. It is

FURTHER ORDERED that the claims asserted against Defendants "Warden Arrel and et. [sic] al." and "The People of the State of Colorado" are dismissed pursuant to 28 U.S.C. § 1915(e)(2)(B) as legally frivolous. It is

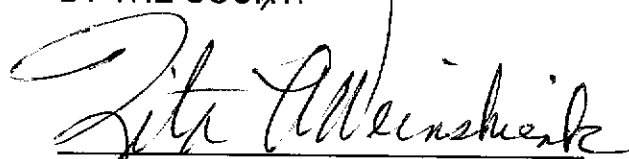
FURTHER ORDERED that the clerk of the Court is directed to remove Defendants "Warden Arrel and et. [sic] al." and "The People of the State of Colorado" as parties to this lawsuit. The remaining Defendants are Nurse Debb Howell, Warden Arellano, Major Scott Grover, and Lt. Bosley.

FURTHER ORDERED that the remaining claims against the remaining

Defendants and the action are drawn to a district judge and to a magistrate judge.

DATED at Denver, Colorado, this 30 day of January, 2009

BY THE COURT:

A handwritten signature in black ink, appearing to read "Zita Weinsienk". The signature is written in a cursive style with a large initial "Z".

ZITA L. WEINSHIENK, Senior Judge  
United States District Judge

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

**CERTIFICATE OF MAILING**

Civil Action No. 08-cv-02117-BNB

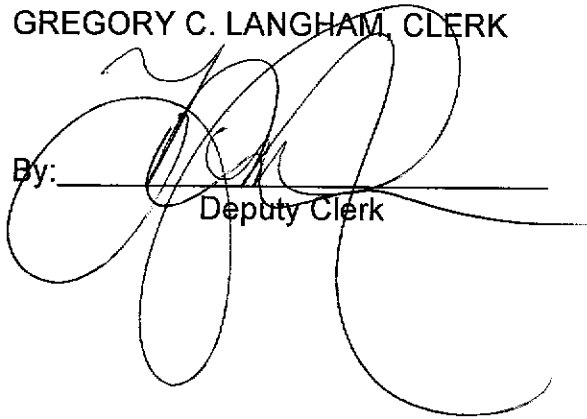
Emmanuel Sanaah  
Prisoner No. 137642  
Arkansas Valley Corr. Facility  
PO Box 1000 - Unit 3  
Crowley, CO 81034

I hereby certify that I have mailed a copy of the **ORDER** to the above-named individuals on 1/30/09

GREGORY C. LANGHAM, CLERK

By: \_\_\_\_\_

Deputy Clerk

A large, stylized handwritten signature in black ink, written over a horizontal line. The signature is highly cursive and loops around the line.