

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 08-cv-02534-BNB

TAWNYA GOETZ,  
DEBORAH WAY,  
MONICA FISHER,  
MAEGHAN DODGE,  
KATHLEEN CLARK,  
TINA BOWMAN,  
TESSIE KING,  
RACHEL BOWMAN,  
SHIRELLE GUZMAN,  
KATHERINE FISHER,  
PAM CISNEROS,  
MARY LOZANO,  
REGINA VIGIL,  
APRIL POPE, and  
HEATHER POWERS,

Plaintiffs,

v.

ARISTEDES ZAVARAS,  
BILL RITTER,  
LARRY REID,  
LAURIE MCGOWAN,  
STEVEN OWENS,  
JOHN DOES I THROUGH X, and  
JANE DOES I THROUGH X,

Defendants.

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

MAY 21 2009

GREGORY C. LANGHAM  
CLERK

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ORDER DIRECTING PLAINTIFFS TO FILE  
SECOND AMENDED PRISONER COMPLAINT

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Plaintiffs Tawnya Goetz, Deborah Way, Monica Fisher, Maeghan Dodge, Shirelle Guzman, Heather Powers, Regina Vigil, Pam Cisneros, Mary Lozano, Kathleen Fisher, Rachel Bowman, April Pope, and Tessie King are in the custody of the Colorado

Department of Corrections. All of the listed Plaintiffs, except Tessie King, are housed at the La Vista Correctional Facility in Pueblo, Colorado. Tessie King is housed at the Denver Women's Correctional Facility in Denver, Colorado. Plaintiff Tawnya Goetz resides in Englewood, Colorado, and Plaintiff Katherine Fisher resides in Fort Collins, Colorado. Plaintiffs initiated this action by filing a *pro se* Prisoner Complaint alleging that their constitutional rights have been violated. They filed an Amended Complaint on December 15, 2008. Plaintiffs seek money damages and injunctive and declaratory relief.

The Court must construe the Prisoner Complaint liberally because Plaintiffs are *pro se* litigants. *See Haines v. Kerner*, 404 U.S. 519, 520-21 (1972); *Hall v. Bellmon*, 935 F.2d 1106, 1110 (10<sup>th</sup> Cir. 1991). However, the Court should not act as a *pro se* litigant's advocate. *See Hall*, 935 F.2d at 1110. For the reasons stated below, Plaintiffs will be ordered to file a Second Amended Prisoner Complaint and assert personal participation in each of the claims they raise.

The Court has reviewed the Amended Prisoner Complaint and finds that it is deficient. Plaintiffs must assert personal participation by each named defendant. *See Bennett v. Passic*, 545 F.2d 1260, 1262-63 (10<sup>th</sup> Cir. 1976). To establish personal participation, Plaintiffs must name and show how named defendants caused a deprivation of their federal rights. *See Kentucky v. Graham*, 473 U.S. 159, 166 (1985). There must be an affirmative link between the alleged constitutional violation and each defendant's participation, control or direction, or failure to supervise. *See Butler v. City of Norman*, 992 F.2d 1053, 1055 (10<sup>th</sup> Cir. 1993). A defendant may not be held liable on a theory of respondeat superior merely because of his or her

supervisory position. *See Pembaur v. City of Cincinnati*, 475 U.S. 469, 479 (1986); *McKee v. Heggy*, 703 F.2d 479, 483 (10<sup>th</sup> Cir. 1983). Plaintiffs fail to assert how Defendants Aristedes Zavaras, Bill Ritter, or Larry Reid either personally were involved in the incidents that they allege or were responsible for prison policy that violates Plaintiffs' constitutional rights.

Plaintiffs, therefore, will be directed to file a Second Amended Prisoner Complaint that asserts all claim and clarifies in each claim who they are suing and allege specific facts that demonstrate how each named Defendant personally participated in the asserted constitutional violation of each named Plaintiff. In order for Plaintiffs to state a claim in federal court, their Amended "[C]omplaint must explain what each defendant did to him [ ]; when the defendant did it; how the defendant's action harmed him [ ]; and, what specific legal right [he] believes the defendant violated."

*Nasious v. Two Unknown B.I.C.E. Agents*, 492 F.3d 1158, 1163 (10<sup>th</sup> Cir. 2007).

Plaintiffs are reminded that each named Plaintiff must sign the Second Amended Prisoner Complaint. Only one Second Amended Prisoner Complaint will be accepted by the Court. Accordingly, it is

ORDERED that Plaintiffs file **within thirty days from the date of this Order** a Second Amended Prisoner Complaint that is in keeping with the instant Order. It is

FURTHER ORDERED that the Clerk of the Court mail to Plaintiffs, together with a copy of this Order, a copy of a Court-approved Prisoner Complaint form to be used in submitting the Second Amended Prisoner Complaint. It is

FURTHER ORDERED that if Plaintiffs fail to file a Second Amended Prisoner Complaint within the time allowed, as instructed above, the action will be dismissed

without further notice.

DATED May 21, 2009, at Denver, Colorado.

BY THE COURT:

s/ Boyd N. Boland  
United States Magistrate Judge

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

**CERTIFICATE OF MAILING**

Civil Action No. 08-cv-02534-BNB

Tawnya Goetz  
Prisoner No. 116598  
La Vista Corr. Facility  
1401 West 17<sup>th</sup> Street  
Pueblo, CO 81003

Deborah Way  
Prisoner No. 139148  
La Vista Corr. Facility  
1401 West 17<sup>th</sup> Street  
Pueblo, CO 81003

Monica Fisher  
Prisoner No. 138591  
La Vista Corr. Facility  
1401 West 17<sup>th</sup> Street  
Pueblo, CO 81003

Meaghan Dodge  
Prisoner No. 123998  
La Vista Corr. Facility  
1401 West 17<sup>th</sup> Street  
Pueblo, CO 81003

Kathleen Clark  
Prisoner No. 55346  
La Vista Corr. Facility  
1401 West 17<sup>th</sup> Street  
Pueblo, CO 81003

Tina Bowman  
2934 E. Fountain Blvd.  
Colo. Springs, CO 80901

Tessie King  
Prisoner No. 80559  
DWCF  
PO Box 392005  
Denver, CO 80239

Rachel Bowman  
Prisoner No. 135709  
La Vista Corr. Facility  
1401 West 17<sup>th</sup> Street  
Pueblo, CO 81003

Shirelle Guzman  
Prisoner No. 118941  
La Vista Corr. Facility  
1401 West 17<sup>th</sup> Street  
Pueblo, CO 81003

Katherine Fisher  
c/o Nicole Martinez  
820 Merganser Dr. 1601  
Ft. Collins, CO 80524

Pam Cisneros  
Prisoner No. 92153  
La Vista Corr. Facility  
1401 West 17<sup>th</sup> Street  
Pueblo, CO 81003

Mary Lozano  
Prisoner No. 127199  
La Vista Corr. Facility  
1401 West 17<sup>th</sup> Street  
Pueblo, CO 81003

Regina Vigil  
Prisoner No. 141427  
La Vista Corr. Facility  
1401 West 17<sup>th</sup> Street  
Pueblo, CO 81003

April Pope  
Prisoner No. 69820  
DWCF  
PO Box 392005  
Unit 5-B-205  
Denver, CO 80239

Heather Powers  
Prisoner No. 136986  
La Vista Corr. Facility  
1401 West 17<sup>th</sup> Street  
Pueblo, CO 81003

I hereby certify that I have mailed a copy of the **ORDER** and two copies of the **Prisoner Complaint** to the above named individuals on 5/21/09

GREGORY C. LANGHAM, CLERK

By: 

Deputy Clerk