

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 08-cv-02821-BNB

ROBERT R. ROGERS,

Plaintiff,

v.

ARISTEDES ZAVARES, Executive Director Colorado Dept. of Corrections,
TANIA GARCIA, T.C. Program Manager,
TEGAN HAACK, CACIII, T.C. Program,
ART DUCHARME, CAC III, Therapist, T.C. Program, and
STACY GORDON, DOC CCI Greenhouse Employee,

Defendants.

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

FEB 17 2009

GREGORY C. LANGHAM
CLERK

ORDER DIRECTING PLAINTIFF TO FILE AMENDED COMPLAINT

Plaintiff, Robert R. Rogers, is a prisoner in the custody of the Colorado Department of Corrections at the Arkansas Valley Correctional Facility in Crowley, Colorado. Mr. Rogers has filed *pro se* a Prisoner Complaint pursuant to 42 U.S.C. § 1983 alleging that his rights under the United States Constitution have been violated. The court must construe the complaint liberally because Mr. Rogers is not represented by an attorney. *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 an advocate for a *pro se* litigant. *See Hall*, 935 F.2d at 1110. For the reasons stated below, Mr. Rogers will be ordered to file an amended complaint.

The court has reviewed the complaint filed by Mr. Rogers and finds that it is deficient. Mr. Rogers is advised that, in order to state a claim in federal court, a

“complaint must explain what each defendant did to him or her; when the defendant did it; how the defendant's action harmed him or her; and, what specific legal right the plaintiff believes the defendant violated.” **Nasious v. Two Unknown B.I.C.E. Agents**, 492 F.3d 1158, 1163 (10th Cir. 2007). Mr. Rogers fails to provide this sort of necessary detail in support of each of his claims. In particular, it is not clear to the court which claims are being asserted against which Defendants, what each Defendant allegedly did to violate Mr. Rogers' rights, or what constitutional rights allegedly have been violated in connection with each asserted claim.

Mr. Rogers also is advised that personal participation is an essential allegation in a civil rights action. **See Bennett v. Passic**, 545 F.2d 1260, 1262-63 (10th Cir. 1976). To establish personal participation, Mr. Rogers must show that each Defendant caused the deprivation of a federal right. **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 (10th Cir. 1993). A Defendant who is a supervisory official may not be held liable on a theory of respondeat superior. **See Pembaur v. City of Cincinnati**, 475 U.S. 469, 479 (1986); **McKee v. Heggy**, 703 F.2d 479, 483 (10th Cir. 1983).

For these reasons, Mr. Rogers will be ordered to file an amended complaint that clarifies the claims he is asserting in this action.

Finally, the court notes that Mr. Rogers has filed on January 22, 2009; “Plaintiff's Motion to Amend Complaint” asking to make a number of amendments to the

complaint. That motion will be denied as moot because Mr. Rogers may include in the amended complaint he will be ordered to file the amendments specified in the January 22 motion to amend. Accordingly, it is

ORDERED that Mr. Rogers file **within thirty (30) days from the date of this order** an original and sufficient copies of an amended complaint that complies with this order if he wishes to pursue his claims in this action. It is

FURTHER ORDERED that the clerk of the court mail to Mr. Rogers, together with a copy of this order, two copies of the following form: Prisoner Complaint. It is

FURTHER ORDERED that, if Mr. Rogers fails to file an original and sufficient copies of an amended complaint that complies with this order to the court's satisfaction within the time allowed, the complaint and the action will be dismissed without further notice. It is

FURTHER ORDERED that "Plaintiff's Motion to Amend Complaint" filed on January 22, 2009, is denied as moot.

DATED February 17, 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-02821-BNB

Robert R. Rogers
Reg No. 60905
Arkansas Valley Corr. Facility
PO Box 1000
Crowley, CO 81034

I hereby certify that I have mailed a copy of the **ORDER and two copies of the Prisoner Complaint form** to the above-named individuals on 2/17/09

GREGORY C. LANGHAM, CLERK

By: 

Deputy Clerk