

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 09-cv-00824-BNB

RICHARD A. RAMOS,

Plaintiff,

v.

MESA COUNTY PAROLE DEPARTMENT,
MESA COUNTY DETENTION FACILITY,
MESA COUNTY SHERIFF'S OFFICE,
STAN HILKEY, and
ROBERT ARMENTA,

Defendants.

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

APR 15 2009

GREGORY C. LANGHAM
CLERK

ORDER DIRECTING PLAINTIFF TO FILE AMENDED COMPLAINT

Plaintiff, Richard A. Ramos, currently is detained at the Mesa County Detention Facility in Grand Junction, Colorado. Mr. Ramos initiated this action by filing a *pro se* Prisoner Complaint alleging that his constitutional rights have been violated. He seeks money damages.

The Court must construe the Complaint liberally because Mr. Ramos is a *pro se* litigant. *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 act as a *pro se* litigant's advocate. *See Hall*, 935 F.2d at 1110. For the reasons stated below, Mr. Ramos will be ordered to file an Amended Complaint, name only proper parties to the action, and assert personal participation by proper parties.

The Court has reviewed the Complaint and finds that it is deficient. Mr. Ramos may not sue Defendants Mesa County Parole Department, Mesa County Detention

Facility, and Mesa County Sheriff's Office, as they are not separate entities from Mesa County and, therefore, are not persons under 42 U.S.C. § 1983. **See *Stump v. Gates***, 777 F. Supp. 808, 814-16 (D. Colo. 1991), **aff'd**, 986 F.2d 1429 (10th Cir. Feb. 11, 1993) (Table case). Any claims asserted against the parole department, the detention facility, and the sheriff's office must be considered as asserted against Mesa County.

In addition, municipalities and municipal entities are not liable under 42 U.S.C. § 1983 solely because their employees inflict injury on a plaintiff. ***Monell v. New York City Dep't of Social Servs.***, 436 U.S. 658, 694 (1978); ***Hinton v. City of Elwood, Kan.***, 997 F.2d 774, 782 (10th Cir. 1993). To establish liability, a plaintiff must show that a policy or custom exists and that there is a direct causal link between the policy or custom and the injury alleged. ***City of Canton, Ohio v. Harris***, 489 U.S. 378, 385 (1989). Mr. Ramos cannot state a claim for relief under § 1983 merely by pointing to isolated incidents. **See *Monell***, 436 U.S. at 694.

Mr. Ramos also must assert personal participation by each named defendant. **See *Bennett v. Passic***, 545 F.2d 1260, 1262-63 (10th Cir. 1976). To establish personal participation, Mr. Ramos must name and show how named defendants caused a deprivation of his 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 (10th 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 (10th Cir. 1983).

Mr. Ramos, therefore, will be directed to file an Amended Complaint that alleges specific facts that demonstrate how each named Defendant personally participated in the asserted constitutional violation. In order for Mr. Ramos to state a claim in federal court, his 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 (10th Cir. 2007). Accordingly, it is

ORDERED that Mr. Ramos file **within thirty days from the date of this Order** an Amended Complaint that is in keeping with the instant Order and names the proper parties to the action. It is

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

FURTHER ORDERED that if Mr. Ramos fails to file an Amended Complaint within the time allowed the action will be dismissed without further notice.

DATED April 15, 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. 09-cv-00824-BNB

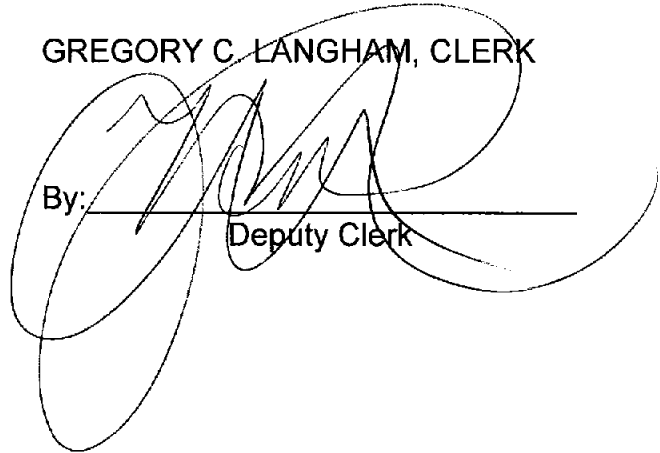
Richard A. Ramos
Prisoner No. 212345
Mesa County Detention Facility
P.O. Box 20,000
Grand Junction, CO 81502

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 4/15/09

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, extending above and below it.