

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 09-cv-01196-BNB

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

NATHAN JERARD DUNLAP, and
MATTHEW FRANSISCO ALFARO,

SEP 02 2009

Plaintiffs,

GREGORY C. LANGHAM
CLERK

v.

ARISTEDES ZAVARAS, individually, and in his official capacity as Executive Director of the Colorado Department of Corrections,
SUSAN JONES, individually, and in her official capacity as the Warden of the Colorado State Penitentiary,
D. COMBS, whose true name is unknown, individually, and in his official capacity as a hearing committee member,
K. MOORE, whose true name is unknown, individually, and in her official capacity as a hearing committee member, and
J. OLSON, whose true name is unknown, individually, and in his official capacity as hearing committee chairperson,

Defendants.

ORDER DIRECTING PLAINTIFFS TO FILE SECOND AMENDED COMPLAINT

Plaintiffs, Nathan Jerard Dunlap and Matthew Fransisco Alfaro, are prisoners in the custody of the Colorado Department of Corrections at the Colorado State Penitentiary in Cañon City, Colorado. Plaintiffs initiated this action by filing *pro se* a joint complaint. Because the complaint was not on the court's Prisoner Complaint form, Plaintiffs were directed to file an amended complaint. On June 17, 2009, each Plaintiff filed an individual amended complaint using the court's Prisoner Complaint form.

The court must construe the amended complaints liberally because Plaintiffs are 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 *pro se* litigants. *See Hall*, 935 F.2d at 1110. For the reasons stated below, Plaintiffs will be ordered to file jointly a second amended complaint on the court's Prisoner Complaint form.

Although the individual amended complaints filed by each Plaintiff assert the same claims for relief, the individual amended complaints are not identical and, in any event, Plaintiffs may not file separate pleadings in the same action. Therefore, in order to avoid any potential confusion in this action and to ensure that the court and all of the parties are addressing the same pleading, Plaintiffs will be directed to file jointly a second amended complaint on the proper form that is signed by both Plaintiffs.

Accordingly, it is

ORDERED that Plaintiffs jointly file a second amended complaint **within thirty (30) days from the date of this order** that is signed by each Plaintiff. It is

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

FURTHER ORDERED that, if Plaintiffs fail within the time allowed to file a second amended complaint signed by both Plaintiffs as directed, the action will be dismissed without further notice.

DATED September 2, 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-01196-BNB

Nathan Jerard Dunlap
Prisoner No. 89148
Colorado State Penitentiary
PO Box 777
Cañon City, CO 81215- 0777

Matthew Fransisco Alfaro
Prisoner No. 110191
Colorado State Penitentiary
PO Box 777
Cañon City, CO 81215- 0777

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 9/2/09

GREGORY C. LANGHAM, CLERK

By: 

Deputy Clerk