

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 09-cv-01266-BNB

PATRICK B. FARRAND,

Plaintiff,

v.

DOUGLAS COUNTY SHERIFF DEPT.,
DEPUTY SHERIFF "TRAP,"
LT. ANDERSON, and
TEIDRIC LEROYN HOWARD,

Defendants.

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO
JUL 14 2009
GREGORY C. LANGHAM
CLERK

ORDER DIRECTING PLAINTIFF TO FILE AMENDED COMPLAINT

Plaintiff, Patrick B. Farrand, is an inmate at the Denver County Jail in Denver, Colorado. Mr. Farrand has filed *pro se* a Prisoner Complaint based on an incident that occurred while he was confined at the Douglas County Jail in Castle Rock, Colorado. The court must construe the complaint liberally because Mr. Farrand 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. Farrand will be ordered to file an amended complaint.

The court has reviewed the Prisoner Complaint and finds that it does not comply with the pleading requirements of Rule 8 of the Federal Rules of Civil Procedure. The twin purposes of a complaint are to give the opposing parties fair notice of the basis for the claims against them so that they may respond and to allow the court to conclude

that the allegations, if proven, show that the plaintiff is entitled to relief. **See *Monument Builders of Greater Kansas City, Inc. v. American Cemetery Ass'n of Kansas***, 891 F.2d 1473, 1480 (10th Cir. 1989). The requirements of Fed. R. Civ. P. 8 are designed to meet these purposes. **See *TV Communications Network, Inc. v. ESPN, Inc.***, 767 F. Supp. 1062, 1069 (D. Colo. 1991), ***aff'd***, 964 F.2d 1022 (10th Cir. 1992). Specifically, Rule 8(a) provides that a complaint “must contain (1) a short and plain statement of the grounds for the court’s jurisdiction, . . . (2) a short and plain statement of the claim showing that the pleader is entitled to relief; and (3) a demand for the relief sought.” The philosophy of Rule 8(a) is reinforced by Rule 8(d)(1), which provides that “[e]ach allegation must be simple, concise, and direct.” Taken together, Rules 8(a) and (d)(1) underscore the emphasis placed on clarity and brevity by the federal pleading rules. Prolix, vague, or unintelligible pleadings violate Rule 8.

Mr. Farrand fails to set forth a short and plain statement of his claim or claims showing that he is entitled to relief. Mr. Farrand alleges that he was assaulted by another inmate at the Douglas County Jail and that jail officials could have prevented the assault. However, it is not clear what specific claim or claims Mr. Farrand is asserting based on the alleged assault and it is not clear against which Defendant or Defendants he is asserting each claim or claims. Furthermore, although Mr. Farrand alleges that he is asserting federal jurisdiction, it is not clear what specific federal claims he is asserting in this action. Construing the Prisoner Complaint liberally, it appears that Mr. Farrand may be asserting federal claims pursuant to 42 U.S.C. § 1983, which “provides a federal cause of action against any person who, acting under color of state

law, deprives another of his federal rights.” *Conn v. Gabbert*, 526 U.S. 286, 290 (1999). However, Mr. Farrand does not indicate in the Prisoner Complaint that he is asserting his claims pursuant to § 1983.

For these reasons, Mr. Farrand will be directed to file an amended complaint that clarifies the claim or claims he is asserting in this action. In order to state a claim in federal court, Mr. Farrand “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). Accordingly, it is

ORDERED that Mr. Farrand file, **within thirty (30) days from the date of this order**, an amended complaint that complies with the pleading requirements of Fed. R. Civ. P. 8(a) as discussed in this order. It is

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

FURTHER ORDERED that, if Mr. Farrand fails to file an amended complaint that complies with this order within the time allowed, the complaint and the action will be dismissed without further notice.

DATED at Denver, Colorado, this 14th day of July, 2009.

BY THE COURT:

s/Craig B. Shaffer
Craig B. Shaffer
United States Magistrate Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

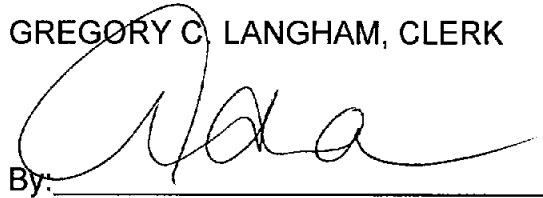
CERTIFICATE OF MAILING

Civil Action No. 09-cv-01266-BNB

Patrick B. Farrand
Prisoner No. 1630435
DRDC
10500 East Smith Road
Denver, CO 80239

I hereby certify that I have mailed a copy of the **ORDER and two copies of the Prisoner Complaint forms** to the above-named individuals on 7/14/09

GREGORY C. LANGHAM, CLERK



By: _____

Deputy Clerk