

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 09-cv-01427-BNB

LEE B. JOHNSON,

Plaintiff,

v.

MARITA J. KEELING, M.D., P.C.,

Defendant.

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

JUN 22 2009

GREGORY C. LANGHAM
CLERK

ORDER DIRECTING PLAINTIFF TO FILE AMENDED COMPLAINT

Plaintiff, Lee B. Johnson, initiated this action by filing *pro se* a Title VII Complaint. The court must construe the Title VII Complaint liberally because Mr. Johnson 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. Johnson will be ordered to file an amended complaint.

The court has reviewed the Title VII Complaint and has determined that it is deficient because 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 the requirements of Rule 8.

Although Mr. Johnson has used the court’s Title VII Complaint form, he does not assert any assert any claims of employment discrimination pursuant to Title VII, which prohibits employment discrimination on the basis of race, color, religion, sex, or national origin. **See** 42 U.S.C. § 2000e-2(a)(1). Instead, Mr. Johnson alleges that he has been denied medical care. Therefore, because Mr. Johnson is not asserting any claims of employment discrimination pursuant to Title VII, he fails to provide a short and plain statement of the grounds for the court’s jurisdiction over the claims he is asserting.

Mr. Johnson also fails to provide a short and plain statement of his claims showing that he is entitled to relief. In particular, Mr. Johnson fails to provide specific factual allegations in support of his claims against Defendant. In order to state a claim in federal court, Mr. Johnson “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). The Title VII Complaint filed by Mr. Johnson lacks any detailed allegations that explain why he is suing Defendant in this court in this action.

Finally, Mr. Johnson fails to include a demand for the relief he is seeking in this action.

For all of these reasons, Mr. Johnson will be ordered to file an amended complaint. Accordingly, it is

ORDERED that Mr. Johnson 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 as discussed in this order. It is

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

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

DATED June 22, 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-01427-BNB

Lee B. Johnson
1201 Clarkson St. Apt. 103
P.O. Box 18633
Denver, CO 80218

I hereby certify that I have mailed a copy of the **ORDER** and **two copies of the Complaint form** to the above-named individuals on 6/22/09

GREGORY C. LANGHAM, CLERK

By: 

Deputy Clerk