IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 09-cv-02199-BNB

MICHAEL CORBELLO, and
ALBERT REYNOLDS,

Plaintiffs,

v.

BUREAU OF PRISONS, North Central Region,
WARDEN REVILLE,
CAPT. HARMON,
SIA VANIC,
LT. HENDERSON,
M. BARKER, Unit Manager,
MS. WILNER, Unit Manager, and
COUNSELOR SAMS,

Defendants.

ORDER DIRECTING PLAINTIFFS TO FILE THIRD AMENDED COMPLAINT

Plaintiffs are prisoners in the custody of the United States Bureau of Prisons at the United States Penitentiary at Florence, Colorado. Plaintiffs have filed ***pro se*** on October 21, 2009, a second amended Prisoner Complaint alleging that their rights under the United States Constitution have been violated. The court must construe the second amended complaint 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 a third amended complaint if they wish to pursue their claims.

The court has reviewed Plaintiffs' second amended complaint and finds that it is deficient. First, it is not clear exactly who Plaintiffs are suing in this action because one of the Defendants listed in the caption of the second amended complaint, identified as Bureau of Prison North Central Region, is not listed as a party in section A of the second amended complaint. Furthermore, it is not clear whether Plaintiffs are asserting any claim against the Defendant identified as Bureau of Prison North Central Region. Therefore, Plaintiffs will be directed to file a third amended complaint that clarifies exactly who is being sued.

Plaintiffs also must clarify in their third amended complaint the specific claims for relief they are asserting against each named Defendant and they must allege specific facts that demonstrate how each named Defendant personally participated in the asserted constitutional violations. Although Plaintiffs allege generally that their Eighth Amendment rights were violated, they fail to provide specific factual allegations in support of their claims. In other words, Plaintiffs fail to specify how each Defendant allegedly violated their Eighth Amendment rights. The general rule that ***pro se*** pleadings must be construed liberally has limits and "the court cannot take on the responsibility of serving as the litigant's attorney in constructing arguments and searching the record." ***Garrett v. Selby Connor Maddux & Janer***, 425 F.3d 836, 840 (10th Cir. 2005). In order to state a claim in federal court, Plaintiffs "must explain what each defendant did to [them]; when the defendant did it; how the defendant's action harmed [them]; and, what specific legal right the plaintiff[s] believes the defendant violated." ***Nasious v. Two Unknown B.I.C.E. Agents***, 492 F.3d 1158, 1163 (10th Cir.

2007). Plaintiffs' general allegations that the prison administration acted to violate their rights do not demonstrate how each named Defendant allegedly violated Plaintiffs' constitutional rights. Accordingly, it is

ORDERED that Plaintiffs file **within thirty (30) days from the date of this order** a joint third amended complaint signed by each Plaintiff that complies with this order if they wish to pursue their claims in this action. 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 to file a joint third amended complaint signed by each Plaintiff that complies with this order to the court's satisfaction within the time allowed, the action will be dismissed without further notice.

DATED November 16, 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-02199-BNB

Michael Corbello
Reg No. 12702-078
US Penitentiary Florence
P.O. Box 7000
Florence, CO 81226

Albert Reynolds
Reg No. 31647-074
US Penitentiary Florence
P.O. Box 7000
Florence, CO 81226

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 11/16/09

GREGORY C. LANGHAM, CLERK

By: _____ Deputy Clerk