

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 09-cv-02526-BNB

JAMES RALPH DAWSON, JR.,

Plaintiff,

v.

LT. JAMES C. GILLIS,  
C.O. D. ALLEN, and  
LT. DALE O'CONNOR,

Defendants.

FILED  
UNITED STATES DISTRICT COURT  
DENVER, COLORADO

DEC 10 2009

GREGORY C. LANGHAM  
CLERK

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ORDER OF DISMISSAL

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Plaintiff, James Ralph Dawson, Jr., is a prisoner in the custody of the Colorado Department of Corrections who currently is incarcerated at the Limon, Colorado, correctional facility. He initiated the instant action by filing *pro se* a civil rights complaint for money damages and injunctive relief pursuant to 42 U.S.C. § 1983 and 18 U.S.C. §§ 241 and 245. He has been granted leave to proceed pursuant to the federal *in forma pauperis* statute, 28 U.S.C. § 1915, and has paid the initial partial filing fee.

The Court must construe the complaint liberally because Mr. Dawson is representing himself. *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 the *pro se* litigant's advocate. *Hall*, 935 F.2d at 1110. For the reasons stated below, the complaint will be dismissed for lack of subject matter jurisdiction.

To the extent Mr. Dawson is attempting to initiate a federal criminal prosecution

pursuant to 18 U.S.C. §§ 241 and 245, he seeks to invoke the authority of United States attorneys under 28 U.S.C. § 547 to prosecute for offenses against the United States. He may not do so. Courts universally endorse the principle that private citizens cannot prosecute criminal actions. *See, e.g., Cok v. Cosentino*, 876 F.2d 1, 2 (1st Cir.1989) (per curiam); *Connecticut Action Now, Inc. v. Roberts Plating Co.*, 457 F.2d 81, 86-87 (2d Cir.1972) ("It is a truism, and has been for many decades, that in our federal system crimes are always prosecuted by the Federal Government, not as has sometimes been done in Anglo-American jurisdictions by private complaints."); *Winslow v. Romer*, 759 F. Supp. 670, 673 (D. Colo.1991) ("Private citizens generally have no standing to institute federal criminal proceedings."). Therefore, to the extent he is attempting to do so, Mr. Dawson lacks standing to maintain a criminal action.

Mr. Dawson asserts one claim. He complains that Defendants confiscated, for two weeks while they conducted an investigation, a letter he received from the United States Department of Justice requesting additional information on the prison actions Mr. Dawson alleged were violating prisoners' constitutional rights. He also alleges that he was denied a grievance while the confiscated letter was under investigation. On the basis of these allegations, he contends that his First Amendment rights to be free from censorship of his legal mail were violated.

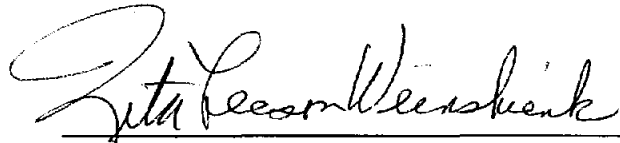
The United States Constitution requires that a party seeking to invoke the jurisdiction of the federal courts must demonstrate that he has suffered some actual or threatened injury, that the injury was caused by the defendants, and that a favorable judicial decision is likely to redress the injury. *Valley Forge Christian College v. Americans United for Separation of Church & State, Inc.*, 454 U.S. 464, 472 (1982);

**Hackford v. Babbitt**, 14 F.3d 1457, 1464 (10th Cir. 1994). Because Mr. Dawson fails to demonstrate any actual or threatened injury as a result of the temporary confiscation of his letter and denial of a grievance while the letter was being investigated, he lacks standing to assert claims attacking the incidents. **See Citizens Concerned for Separation of Church & State v. City & County of Denver**, 628 F.2d 1289, 1295-96 (10th Cir. 1980). The complaint will be dismissed for lack of subject matter jurisdiction. Accordingly, it is

ORDERED that the complaint and the action are dismissed for lack of subject matter jurisdiction.

DATED at Denver, Colorado, this 9<sup>th</sup> day of December, 2009.

BY THE COURT:

  
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ZITA LEESON WEINSHIENK  
Senior Judge, United States District Court

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

**CERTIFICATE OF MAILING**

Civil Action No. 09-cv-02526-BNB

James Ralph Dawson, Jr.  
Prisoner No. 46709  
Limon Correctional Facility  
49030 State Hwy. 71  
Limon, CO 80826

I hereby certify that I have mailed a copy of the **ORDER AND JUDGMENT** to the above-named individuals on 12/10/09

GREGORY C. LANGHAM, CLERK

By: 

Deputy Clerk