

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 09-cv-02557-BNB

CYNTHIA RENEE PINKEY,

Plaintiff,

v.

ARI ZAVARAS, Director,
SGT. MASTERS,
ASS. WARDEN SCOTT HALL,
MAJOR CHAVEZ,
WARDEN TRAVIS TRANI,
LT. COOK,
LT. SCHELBLE,
LT. PAGENT, and
SGT. SMALL,

Defendants.

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

MAR 09 2010

GREGORY C. LANGHAM
CLERK

ORDER DIRECTING PLAINTIFF TO FILE THIRD AMENDED COMPLAINT

Plaintiff, Cynthia Renee Pinkey, is a prisoner in the custody of the Colorado Department of Corrections at the Denver Women's Correctional Facility in Denver, Colorado. Ms. Pinkey initiated this action by filing *pro se* a Prisoner Complaint. On December 2, 2009, she filed an amended Prisoner Complaint. On January 11, 2010, the court ordered Ms. Pinkey to file a second amended complaint that clarifies the claims she is asserting against each named Defendant in this action. The court also noted that Ms. Pinkey must allege specific facts that demonstrate how each Defendant personally participated in the asserted constitutional violations. On February 19, 2009, Ms. Pinkey filed a second amended Prisoner Complaint.

The court must construe the second amended Prisoner Complaint liberally because Ms. Pinkey 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, Ms. Pinkey will be ordered to file a third amended complaint.

The court has reviewed the second amended Prisoner Complaint and has determined that the second amended Prisoner Complaint also is deficient. Although it appears that Ms. Pinkey has made an effort to provide specific factual detail in support of her claims, those claims still lack essential factual information. For example, Ms. Pinkey makes vague references in both her second and third claims for relief to actions that allegedly occurred “on several occasions” without providing specific dates regarding the referenced occasions and without specifying what specific rights were violated on those occasions.

As Ms. Pinkey previously was advised, 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). Furthermore, in order to state a claim in federal court, Ms. Pinkey “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 second amended complaint filed by Ms. Pinkey fails to identify, with respect to each named Defendant, when and what that Defendant did and what specific legal right Ms. Pinkey believes was violated by each Defendant's actions.

For these reasons, Ms. Pinkey will be ordered to file a third amended complaint if she wishes to pursue her claims in this action. Ms. Pinkey is reminded that she must specify, for each claim and each Defendant, what that Defendant did, when the Defendant did it, how she was harmed, and what legal right the Defendant violated. If Ms. Pinkey fails to provide the necessary factual detail in the third amended complaint she will be ordered to file, the action will be dismissed. Accordingly, it is

ORDERED that Ms. Pinkey file, **within thirty (30) days from the date of this order**, a third amended complaint that complies with this order. It is

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

FURTHER ORDERED that if Ms. Pinkey fails within the time allowed to file a third amended complaint that complies with this order the action will be dismissed without further notice.

DATED March 9, 2010, 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-02557-BNB

Cynthia R. Pinkey
Prisoner No. 89688
Denver Women's Corr. Facility
PO Box 392005
Denver, CO 80239

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 3/9/10

GREGORY C. LANGHAM, CLERK

By: 

Deputy Clerk