

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 10-cv-00515-BNB

STEVEN T. HADEN,

Plaintiff,

v.

ARI ZAVARAS, Director of the Colorado Department of Corrections,
STEVE GREEN, Warden, Buena Vista Correctional Facility,
and all others named and unnamed in the aforementioned action; and
JOHN SUTHERS, Attorney General, State of Colorado,

Defendants.

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

APR 02 2010

GREGORY C. LANGHAM
CLERK

ORDER DIRECTING PLAINTIFF TO FILE SECOND AMENDED COMPLAINT

Plaintiff, Steven T. Haden, is a prisoner in the custody of the Colorado Department of Corrections and is currently incarcerated at the Buena Vista Correctional Facility. Mr. Haden initiated this action by filing a Prisoner Complaint and a Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 on March 1, 2010. Mr. Haden has been granted leave to proceed *in forma pauperis* and has paid an initial partial filing fee.

Mr. Haden filed an Amended Complaint on March 11, 2010. However, the Amended Complaint is not on the Court-approved form and does not contain any claims for relief. Instead, it appears to be a request to add and remove defendants. Mr. Haden is reminded that an amended complaint supersedes the original complaint. **See *Balance v. Redman Homes, Inc.***, 759 F.2d 504, 508 (5th Cir. 1985); ***Cameron v. Figwort***, 705 F.2d 676 (2d Cir.1983); ***London v. Coopers & Lybrand***, 644 F.2d 811

(9th Cir. 1981); 6 C. Wright, A. Miller & M. Kane, *Federal Practice and Procedure* § 1476 (1990). Accordingly, Mr. Haden will be ordered to file a Second Amended Complaint.

The Second Amended Complaint must be submitted on the Court-approved form and must contain all claims, named parties, and requests for relief. Plaintiff is reminded that he must provide a short and plain statement of the basis for the Court's jurisdiction and of his claims so that the Court and the defendants understand what he is claiming in this action and are be able to respond to those claims.

Plaintiff is also reminded that personal participation by the named defendants is an essential allegation in a civil rights action. *See Bennett v. Passic*, 545 F.2d 1260, 1262-63 (10th Cir. 1976). *Id.* Mr. Haden must show that each defendant caused the deprivation of a federal right. *See Kentucky v. Graham*, 473 U.S. 159, 166 (1985). There must be an affirmative link between the alleged constitutional violation and each defendant's participation, control or direction, or failure to supervise. *See Butler v. City of Norman*, 992 F.2d 1053, 1055 (10th Cir. 1993). A defendant, such as Executive Director Ari Zavaras or Warden Steve Green, may not be held liable merely because of his or her supervisory position. *See Pembaur v. City of Cincinnati*, 475 U.S. 469, 479 (1986); *McKee v. Heggy*, 703 F.2d 479, 483 (10th Cir. 1983). The Second Amended "[C]omplaint must explain what each defendant did to him . . . ; when the defendant did it; how the defendant's action harmed him . . . ; and, what specific legal right [he] believes the defendant violated." *Nasious v. Two Unknown B.I.C.E. Agents*, 492 F.3d 1158, 1163 (10th Cir. 2007).

Mr. Haden may use fictitious names, such as Jane or John Doe, if he does not know the real names of the individuals who allegedly violated his rights. However, if Mr. Haden uses fictitious names he must provide sufficient information about each defendant so that each defendant can be identified for purposes of service. Accordingly, it is

ORDERED that Plaintiff, Steven T. Haden, file **within thirty (30) days from the date of this order** a second amended complaint that complies with the directives in this order. It is

FURTHER ORDERED that the clerk of the Court mail to Mr. Haden, together with a copy of this order, two copies of the following form to be used in submitting the second amended complaint: Prisoner Complaint. It is

FURTHER ORDERED that, if Mr. Haden fails to file a second amended complaint that complies with this order to the Court's satisfaction within the time allowed, the amended complaint and the action will be dismissed without further notice.

DATED April 2, 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. 10-cv-00515-BNB

Steven T. Haden
Prisoner No. 118881
Buena Vista Corr. Facility
PO Box 2017
Buena Vista, CO 81211

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 4/2/10

GREGORY C. LANGHAM, CLERK

By:  _____
Deputy Clerk