

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 1:10-cv-00604-DME-CBS

MICHAEL WAYNE BINGHAM,

Plaintiff,

v.

ARISTEDES W. ZAVARAS, Executive Director, CDOC,
WARDEN TIMME, FCF,
LT. KOICHEVER,
LT. DIRECTO,
SGT. MARTIN,
SGT. STOGHILL,
JIM MOORE,
WARDEN MILYARD,
C/O CLINTON AULTMAN, and,
JANEEN LANE,

Defendants.

ORDER DENYING PLAINTIFF'S MOTION FOR DECLARATORY JUDGMENT

This matter comes before the Court on Plaintiff's Motion for Declaratory Judgment, F.R.C.P. Rule 57 (Doc. 113.)

Proceeding pro se and in forma pauperis, Michael Bingham filed this suit under 42 U.S.C. § 1983, alleging three claims. (Doc. 36.) All of the claims stem from events that occurred in September and October of 2009, when Bingham was incarcerated at the Fremont Correctional Facility of the Colorado Department of Corrections. According to Bingham, in mid to late September of 2009, he informed Defendant Martin, the sergeant of Bingham's cell house, about assaults, extortions, and threats being committed in his cell house by the 211 gang. Bingham claims that on October 4, 2009, "inmate Brasher assaulted" him, possibly in retaliation

for giving that information to Martin. Then, while subduing the two inmates, Defendant Aultman, a correctional officer, sprayed Bingham in the eyes with OC, also known as pepper spray. Finally, Bingham claims that he failed to receive medical care for the burns from the pepper spray.

A pro se litigant's pleadings are entitled to a liberal construction, though he must still follow the rules of federal procedure. Ogden v. San Juan Cty., 32 F.3d 452, 455 (10th Cir. 1994). The parties and the court are under no obligation to craft legal theories for a pro se litigant. Hall v. Bellmon, 935 F.2d 1106, 1110 (10th Cir. 1991).

Although the Court diligently reviewed this motion under such a liberal construction, the Court cannot discern the relief requested or the legal theories relied upon. Therefore, the Motion for Declaratory Judgment, F.R.C.P. Rule 57 is DENIED.

Dated this 12th day of July, 2011.

BY THE COURT:

s/ David M. Ebel

U. S. CIRCUIT COURT JUDGE