

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 10-cv-00978-BNB

DANA COOPER, # 135056,

Plaintiff,

v.

LT. BURKE,
ASSOCIATE WARDEN ALLEN,
WARDEN SUSAN JONES,
LT. J. PACHECO,
LT. CHAVEZ, and
C/O P. ARCHULETA,

Defendants.

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

MAY 19 2010

GREGORY C. LANGHAM
CLERK

ORDER DIRECTING PLAINTIFF TO FILE AMENDED COMPLAINT

Plaintiff, Dana Cooper, is in the custody of the Colorado Department of Corrections (DOC) and currently is incarcerated at the Colorado State Penitentiary in Cañon City, Colorado. The Court must construe the Complaint liberally because Mr. Cooper is a *pro se* litigant. **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 act as a *pro se* litigant's advocate. **Hall**, 935 F.2d at 1110. For the reasons stated below, Mr. Cooper will be ordered to file an Amended Complaint.

The twin purposes of a complaint are to give the opposing parties fair notice of the basis for the claims against them so that they may respond and to allow the Court to conclude that the allegations, if proven, show that the plaintiff is entitled to relief. **See Monument Builders of Greater Kansas City, Inc. v. American Cemetery Ass'n of**

Kansas, 891 F.2d 1473, 1480 (10th Cir. 1989). The requirements of Fed. R. Civ. P. 8 are designed to meet these purposes. **See TV Communications Network, Inc. v. ESPN, Inc.**, 767 F. Supp. 1062, 1069 (D. Colo. 1991), **aff'd**, 964 F.2d 1022 (10th Cir. 1992). Specifically, Rule 8(a) provides that a complaint “must contain (1) a short and plain statement of the grounds for the court’s jurisdiction, . . . (2) a short and plain statement of the claim showing that the pleader is entitled to relief; and (3) a demand for the relief sought.” The philosophy of Rule 8(a) is reinforced by Rule 8(d)(1), which provides that “[e]ach allegation must be simple, concise, and direct.” Taken together, Rules 8(a) and (d)(1) underscore the emphasis placed on clarity and brevity by the federal pleading rules. Prolix, vague, or unintelligible pleadings violate the requirements of Rule 8.

Mr. Cooper is an experienced **pro se** litigant, having filed seventeen cases in this Court since July 29, 2008. Eleven of the seventeen cases still are pending. In the instant action, Mr. Cooper has included claims on Pages Six and Seven that have been raised in several of his previous cases. Also in the instant action, rather than identifying the claims that he is raising on Pages Seven, Eight, and Nine, Mr. Cooper simply sets forth a narrative of events. The Complaint, therefore, fails to meet the clarity and brevity requirements under Rule 8.

The Court instructs Mr. Cooper to file an Amended Complaint in which he raises only new claims and identifies the nature of the claim(s) he is raising under Section “D. Cause of Action.” As for Mr. Cooper’s “Request for Court Oder [sic] of Legal Photo Copies,” he has no constitutional right to photocopies. Furthermore, the attachment to

the Request for Court Order, Exhibit A, states that the DOC is providing Mr. Cooper with one copy of each original pleading he is filing with the Court, including pleadings submitted in actions that challenge his conditions of confinement. Mr. Cooper's Request for Court Order, therefore, will be denied. Accordingly, it is

ORDERED that Mr. Cooper file, **within thirty days from the date of this Order**, an Amended Complaint that complies with the particulars of this Order. It is

FURTHER ORDERED that the Clerk of the Court mail to Mr. Cooper, together with a copy of this Order, two copies of the Prisoner Complaint form. It is

FURTHER ORDERED that if Mr. Cooper fails to comply with this Order within the time allowed the Complaint and the action will be dismissed without further notice. It is

FURTHER ORDERED that the Request for Court Order of Legal Photocopies (Doc. No. 4) filed on April 29, 2010, is DENIED.

DATED May 19, 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

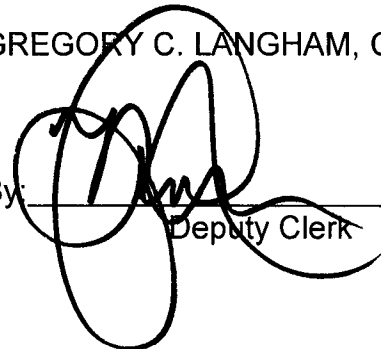
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Dana Cooper
Prisoner No. 135056
Colorado State Penitentiary
P.O. Box 777
Cañon City, CO 81215-0777

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 5/19/10

GREGORY C. LANGHAM, CLERK

By



Deputy Clerk