

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 10-cv-01659-BNB

MARK J. DENNY,

Plaintiff,

v.

B. DAVIS, Warden,  
SIGLER, A.W.,  
R. HODAK, Captain,  
S. BROWN, SIS,  
SINDER, SHU LT.,  
JOHN DOE, Psych Staff,  
JOHN DOES 1 through 6, C.O.,  
WATSON, LT.,  
REYNOLDS, C.O.,  
CHECON, C.O., and

A.C., C.O., Each Defendant is sued individually and in his official capacities, their officers, agents, employees, assigns and successors, any unknown person involved, et al.,

Defendants.

FILED  
UNITED STATES DISTRICT COURT  
DENVER, COLORADO

AUG 23 2010

GREGORY C. LANGHAM  
CLERK

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ORDER DIRECTING PLAINTIFF TO FILE AMENDED COMPLAINT

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Plaintiff, Mark J. Denny, is a prisoner in the custody of the United States Bureau of Prisons and is incarcerated at the at ADX Florence. Mr. Denny, acting *pro se*, initiated this action by filing a Prisoner Complaint alleging that his constitutional rights were violated. He asks for money damages and injunctive relief.

The Court must construe the Complaint liberally because Mr. Denny is a *pro se* litigant. *See Haines v. Kerner*, 404 U.S. 519, 520-21 (1972); *Hall v. Bellmon*, 935 F.2d 1106, 1110 (10<sup>th</sup> Cir. 1991). However, the Court should not act as a *pro se*

litigant's advocate. **See Hall**, 935 F.2d at 1110. For the reasons stated below, Mr. Denny will be ordered to file an Amended Complaint and assert how each named party violated his constitutional rights.

Mr. Denny must assert personal participation by each named defendant. **See Bennett v. Passic**, 545 F.2d 1260, 1262-63 (10<sup>th</sup> Cir. 1976). To establish personal participation, Mr. Denny must name and show how each individual 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 (10<sup>th</sup> Cir. 1993). A defendant may **not** be held liable on a **theory of respondeat superior** 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 (10<sup>th</sup> Cir. 1983). A supervisor is only liable for constitutional violations that they cause. **See Dodds v. Richardson, et al.**, \_\_\_ F.3d \_\_\_, 2010 WL 3064002 (10<sup>th</sup> Cir. 2010) (Tymkovich, J., concurring).

Mr. Denny also is instructed that to state a claim in federal court, he must explain in his Amended Complaint what each defendant did to him, when the defendant did the action, how the 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 (10<sup>th</sup> Cir. 2007). Accordingly, it is

ORDERED that Mr. Denny file **within thirty days from the date of this Order** an Amended Complaint that is in keeping with the instant action. It is

FURTHER ORDERED that the Clerk of the Court mail to Mr. Denny, together with a copy of this Order, two copies of a Court-approved Prisoner Complaint form to be used in submitting the Amended Complaint. It is

FURTHER ORDERED that if Mr. Denny fails within the time allowed to file an Amended Complaint that complies with this Order, the action will be dismissed without further notice. It is

FURTHER ORDERED that process shall not issue until further order of the Court.

DATED August 23, 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-01659-BNB

Mark J. Denny  
Reg No. 07757-046  
ADX – Florence  
P.O. Box 8500  
Florence, CO 81226

I hereby certify that I have mailed a copy of the **ORDER** and **two copies of Prisoner Complaint form** to the above-named individuals on 8/23/10

GREGORY C. LANGHAM, CLERK

By: 

Deputy Clerk