

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 10-cv-02172-BNB

BONNER ROBINETTE, and  
SHIRLEY ROBINETTE,

Plaintiffs,

v.

SYDNEY "DUKE" SCHIRARD, Sheriff La Plata County Colorado, in his Individual  
and Professional Capacities,  
BOBBIE FENDER, in his Individual and Professional Capacities,  
DANIEL NEWMAN, in his Individual and Professional Capacities,  
CODY STORY, in his Individual and Professional Capacities,  
MELVIN SCHAFF, in his Individual and Professional Capacities, and  
CHARLES HAMBY, in his Individual and Professional Capacities,

Defendants.

**FILED**  
UNITED STATES DISTRICT COURT  
DENVER, COLORADO

DEC 15 2010

**GREGORY C. LANGHAM**  
CLERK

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ORDER DIRECTING PLAINTIFFS TO FILE AMENDED COMPLAINT

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Plaintiffs, Bonner Robinette and Shirley Robinette, by and through their counsel, have filed a civil rights Complaint pursuant to 42 U.S.C. § 1983 alleging violations of their constitutional rights. Each Plaintiff has been granted leave to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915. The Court has reviewed the Complaint and has determined that it is deficient. For the reasons discussed below, Plaintiffs will be directed to file an Amended Complaint.

The Complaint does not allege any specific facts to demonstrate that Defendants Newman, Story, Schaff, or Hamby personally participated in the alleged violation of the Plaintiffs' constitutional rights. The Robinettes are advised 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). Plaintiffs 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 Sydney "Duke" Schirard, the La Plata County Sheriff, may not be held liable merely because of his 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). Instead, a supervisor is only liable for a constitutional violation that he or she has caused. **See *Dodds v. Richardson***, 614 F.3d 1185, 1199 (10th Cir. 2010).

Furthermore, in order to state a claim in federal court, the Robinettes "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). Accordingly, it is

ORDERED that Plaintiffs, Bonner Robinette and Shirley Robinette, file **within thirty (30) days from the date of this Order** an Amended Complaint that complies with the directives in this Order. It is

FURTHER ORDERED that, if the Plaintiffs fail to file an Amended Complaint that complies with this Order to the Court's satisfaction within the time allowed, the Complaint and the action will be dismissed without further notice.

DATED December 15, 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-02172-BNB

Lynda E. Carter  
Attorney at Law

**DELIVERED ELECTRONICALLY**

I hereby certify that I have mailed a copy of the **ORDER** to the above-named individuals on December 15, 2010.

GREGORY C. LANGHAM, CLERK

By: 

Deputy Clerk