

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 11-cv-00196-BNB

LOUIS E. TILLMAN,

Plaintiff,

v.

MHC KENWORTH,

Defendant.

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

FEB 08 2011

GREGORY C. LANGHAM  
CLERK

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ORDER DIRECTING PLAINTIFF TO FILE AMENDED COMPLAINT

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Plaintiff, Louis E. Tillman, has filed *pro se* a Complaint asserting a claim pursuant to 42 U.S.C. § 1981 and § 1983, a state law breach of contract claim, and four claims pursuant to various criminal statutes. The court must construe the Complaint liberally because Mr. Tillman is not represented by an attorney. *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 be an advocate for a *pro se* litigant. *See Hall*, 935 F.2d at 1110. For the reasons stated below, Mr. Tillman will be ordered to file an amended complaint.

The court has reviewed the Complaint and has determined that the Complaint is deficient because the named Defendant in the caption of the Complaint, MHC Kenworth, is not listed as a defendant on page 2 of the Complaint in the section listing the parties to the action. Instead, Mr. Tillman lists Timothy R. Murphy as the only defendant on page 2 of the Complaint, but Mr. Murphy is not listed as a Defendant in

the caption of the Complaint and nothing in the Complaint makes clear who Mr. Murphy is or why he may be named as a Defendant in this action. As a result, it is not clear who Mr. Tillman intends to sue in this action. Therefore, Mr. Tillman will be ordered to file an amended complaint that identifies clearly who he is suing in this action and that lists an address for each named Defendant.

The court also notes that Mr. Tillman may not pursue the claims he is asserting pursuant to various federal criminal statutes. Courts universally endorse the principle that private citizens cannot prosecute criminal actions. *See, e.g., Cok v. Cosentino*, 876 F.2d 1, 2 (1<sup>st</sup> Cir.1989) (per curiam); *Connecticut Action Now, Inc. v. Roberts Plating Co.*, 457 F.2d 81, 86-87 (2d Cir.1972) (“It is a truism, and has been for many decades, that in our federal system crimes are always prosecuted by the Federal Government, not as has sometimes been done in Anglo-American jurisdictions by private complaints.”); *Winslow v. Romer*, 759 F. Supp. 670, 673 (D. Colo.1991) (“Private citizens generally have no standing to institute federal criminal proceedings.”). Therefore, Mr. Tillman lacks standing to invoke the authority of United States attorneys under 28 U.S.C. § 547 to prosecute for offenses against the United States.

Accordingly, it is

ORDERED that Mr. Tillman file, **within thirty (30) days from the date of this order**, an amended complaint that complies with this order. It is

FURTHER ORDERED that the clerk of the court mail to Mr. Tillman, together with a copy of this order, two copies of the following form: Complaint. It is

FURTHER ORDERED that, if Mr. Tillman fails within the time allowed to file an

amended complaint that complies with this order, the action will be dismissed without further notice.

DATED February 3, 2011, 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. 11-cv-00196-BNB

Louis E Tillman  
10741 Jordan Crt  
Parker, CO 80134

I hereby certify that I have mailed a copy of the **ORDER** and **two copies of the Complaint form** to the above-named individuals on February 3, 2011.

GREGORY C. LANGHAM, CLERK

By:  \_\_\_\_\_  
Deputy Clerk