

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADOFILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

Civil Action No. 11-cv-02079-CBS

OCT 25 2011

MARQUISE D. HARRIS,

GREGORY C. LANGHAM
CLERK

Plaintiff,

v.

THE CITY & COUNTY OF DENVER,
MICHAEL B. HANCOCK, Mayor,
JOHN HICKENLOOPER, Governor,
GERALD WHITMAN, Chief,
DAVID FISHER, Division Chief,
CHARLES GARCIA, Safety Manager,
SCOTT SNOW, Director Victim/Witness Assistance,
MITCHELL R. MORRISSEY, District Attorney,
TIM TWINING, District Attorney,
STEVE SEGEL, District Attorney,
RICHARD B. HARRIS, District Attorney,
MIKE MILLS, Director Crime Stoppers, and
DAVE BELOUE, Assistant Director Crime Stoppers,

Defendants.

ORDER OF DISMISSAL

Plaintiff, Marquise D. Harris, has filed *pro se* a Complaint (Doc. #10) seeking mandamus relief. The Court must construe the Complaint liberally because Mr. Harris 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 (10th Cir. 1991). If the Complaint reasonably can be read "to state a valid claim on which the plaintiff could prevail, [the Court] should do so despite the plaintiff's failure to cite proper legal authority, his confusion of various legal theories, his poor syntax and sentence construction, or his unfamiliarity with

pleading requirements.” *Hall*, 935 F.2d at 1110. However, the Court should not be an advocate for a *pro se* litigant. *See id.* For the reasons stated below, the Complaint will be dismissed.

Mr. Harris alleges that he was a material witness against Willie D. Clark, who was convicted in Denver District Court in March 2010 for killing Darrent Williams, a football player for the Denver Broncos. Mr. Harris specifically alleges that he provided the police and prosecutors with a copy of a letter written by Willie D. Clark in which Willie D. Clark confessed to killing Darrent Williams. Mr. Harris contends that he provided the letter to the police and prosecutors in exchange for a promise that he would receive \$102,000.00 in reward money offered through Crime Stoppers. Mr. Harris maintains that he has not received the reward money and that the Denver police are refusing to provide protection for himself and his family despite credible threats from gang members associated with Willie D. Clark. As relief in this mandamus action Mr. Harris seeks an order compelling Defendants to release the reward money, to make a fair and impartial determination regarding any division of the reward money, and to provide adequate witness protection to Mr. Harris and his family.

Mr. Harris specifically seeks mandamus relief pursuant to Rule 106 of the Colorado Rules of Civil Procedure. However, the Colorado Rules of Civil Procedure are not applicable in this federal court. Therefore, the Court construes the request for mandamus relief as being asserted pursuant to 28 U.S.C. § 1361, the federal mandamus statute.

The federal mandamus statute provides that a federal district court “shall have original jurisdiction of any action in the nature of mandamus to compel an officer or

employee of the United States or any agency thereof to perform a duty owed to the plaintiff." 28 U.S.C. § 1361. To grant mandamus relief, the Court must find that Mr. Harris has a clear right to the relief sought, that Defendants have a plainly defined and peremptory duty to perform the action in question, and that no other adequate remedy is available. *See Wilder v. Prokop*, 846 F.2d 613, 620 (10th Cir. 1988).

The mandamus claims Mr. Harris asserts in this action must be dismissed because § 1361 authorizes mandamus relief only against federal officials and Mr. Harris asserts his mandamus claims against state and local governmental officials. Therefore, the Complaint will be dismissed because the Court lacks jurisdiction to grant the relief Mr. Harris seeks. Accordingly, it is

ORDERED that the Complaint and the action are dismissed.

DATED at Denver, Colorado, this 25th day of October, 2011.

BY THE COURT:

s/Lewis T. Babcock
LEWIS T. BABCOCK, Senior Judge
United States District Court

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

CERTIFICATE OF MAILING

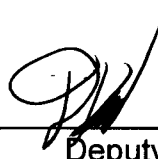
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Marquise D Harris
PO Box 25727
Colorado Springs, CO 80397

I hereby certify that I have mailed a copy of the **ORDER and JUDGMENT** to the above-named individuals on October 25, 2011.

GREGORY C. LANGHAM, CLERK

By: _____



Deputy Clerk