

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

JAMES VAN HOUTEN,

Plaintiff,

vs.

CIVIL ACTION
No. 10-3214-SAC

RAYMOND ROBERTS, et al.,

Defendants.

MEMORANDUM AND ORDER

This matter comes before the court on a civil rights action filed pursuant to 42 U.S.C. § 1983. Plaintiff alleges his long-term placement in administrative segregation violates his rights under the 8th Amendment.

Pursuant to Rule 8(a) of the Federal Rules of Civil Procedure, 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." To satisfy this provision, "[i]t is sufficient, and indeed all that is permissible, if the complaint concisely states facts upon which relief can be granted upon any legally sustainable basis." *New Home Appliance Ctr., Inc., v. Thompson,*

250 F.2d 881, 883 (10th Cir.1957).

Pursuant to Rule 9.1(a) of the rules of this court, a civil action filed pursuant to §1983 by a prisoner shall be filed on a form pleading. The complaint form provides an area for a plaintiff to set out the supporting facts for each claim. Plaintiff, however, has not supplied a statement of facts but refers the court to a grievance. (Doc. 1, p. 3.) This is insufficient. While a pro se party's pleadings must be given a liberal construction, see *Haines v. Kerner*, 404 U.S. 519, 520-21 (1972), a court should not act as an advocate for a pro se party. See *Hall v. Bellmon*, 935 F.2d 11016, 1110 (10th Cir. 1991). Therefore, "the court cannot take on the responsibility of serving as the litigant's attorney in constructing arguments and searching the record." *Garrett v. Selby Connor Maddux & Janer*, 425 F.3d 836, 840 (10th Cir.2005).

IT IS, THEREFORE, BY THE COURT ORDERED plaintiff is granted to and including December 27, 2010, to file an amended complaint. The failure to file a timely response to this order may result in the dismissal of this matter without prejudice and without additional prior notice to the plaintiff.

IT IS FURTHER ORDERED plaintiff's motion for leave to proceed in forma pauperis (Doc. 2) is provisionally granted.

A copy of this order shall be transmitted to the plaintiff.

IT IS SO ORDERED.

Dated at Topeka, Kansas, this 23rd day of November, 2010.

S/ Sam A. Crow
SAM A. CROW
United States Senior District Judge