

**UNITED STATES DISTRICT COURT  
DISTRICT OF CONNECTICUT**

MARIANO X. RODRIGUEZ,	:		
	:		
Plaintiff,	:	NO. 3:04cv718 (MRK)	
	:		
v.	:		
	:		
DEPT. OF HOMELAND SECURITY,	:		
ET AL.,	:		
	:		
Defendants.	:		

**ORDER**

Plaintiff Mariano X. Rodriguez bring this action *pro se* against the Department of Homeland Security and seven other Defendants.<sup>1</sup> Because both Plaintiff's Complaint [doc. #6] dated April 13, 2004 and Plaintiff's Amended Complaint [doc. #8] dated April 27, 2004 fail to meet the requirements of Rule 8(a)(2) of the *Federal Rules of Civil Procedure*, they will be dismissed and Plaintiff will be given an opportunity to file a second Amended Complaint that meets those requirements.

Rule 8(a)(2) requires that a complaint contain a "short and plain statement of the claim showing that the pleader is entitled to relief." Fed. R. Civ. P. 8(a)(2). "The statement should be plain because the principal function of pleadings under the Federal Rules is to give the adverse party fair notice of the claim asserted so as to enable him to answer and prepare for trial." *Salahuddin v. Cuomo*, 861 F.2d 40, 42 (2d Cir. 1988); *see also Wynder v. McMahon*, 360 F.3d 73, 79 (2d Cir. 2004) (defining "fair notice" as "that which will enable the adverse party to

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<sup>1</sup> The other Defendants are the National Security Agency, the United States of America, the Secret Service, the Federal Bureau of Investigation (FBI), the United States Drug Enforcement Agency (DEA), St. Vincent's Hospital, and the Fairfield Police Department.

answer and prepare for trial, allow the application of *res judicata*, and identify the nature of the case so that it may be assigned the proper form of trial.' ") (quoting *Simmons v. Abruzzo*, 49 F.3d 83, 86 (2d Cir. 1995)). When a complaint fails to comply with this rule, the district court may dismiss it *sua sponte*. *Simmons*, 49 F.3d at 86. "Dismissal . . . is usually reserved for those cases in which the complaint is so confused, ambiguous, vague, or otherwise unintelligible that its true substance, if any, is well disguised." *Salahuddin*, 861 F.2d at 42 (quoted in *Kittay v. Kornstein*, 230 F.3d 531, 541 (2d Cir. 2000)).

Plaintiff's Complaint [doc. #6] and Amended Complaint [doc. #8] fall far short of meeting the minimum acceptable level of pleading under Rule 8(a)(2). The two claims in the Complaint [doc. #6] and all three claims in the Amended Complaint [doc. #8] are unintelligible. It is impossible to tell what any of the Defendants is alleged to have done wrong. The statements of fact are incomprehensible, and the other materials submitted by Plaintiff provide no clarification. Thus, the Complaint [doc. #6] and the Amended Complaint [doc. #8] fail to provide fair notice of the claims, and it is hard to imagine what answer any of the Defendants could make.

For all the aforementioned reasons, Plaintiff's Complaint [doc. #6] and Amended Complaint [doc. #8] are DISMISSED for failure to comply with Rule 8(a)(2).<sup>2</sup> If a "court dismisses [a] complaint for failure to comply with Rule 8, it should generally give the plaintiff leave to amend." *Simmons*, 49 F.3d at 87. Accordingly, Plaintiff has **until March 7, 2005** to file a second amended complaint. If no such complaint is filed by then, or if the second amended

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<sup>2</sup> The Court notes that a similar result was reached in Plaintiff's case *Rodriguez v. Fairfield Police Department*, No. 03:04cv715 (RNC), which was filed on the same date as the case before this Court.

complaint also fails to comply with Rule 8(a)(2), this case will be dismissed without further notice.

Since Plaintiff's Complaint [doc. #6] and Amended Complaint [doc. #8] are dismissed, the Court DENIES AS MOOT the following pending motions: (1) Plaintiff's Motion to Amend Complaint [doc. #2]; (2) Plaintiff's Motion to File Writ of Habeas Corpus, Motion to Extend Time, Motion to File Added Discovery, Motion to Amend, Motion to Compel, Motion to Consol [doc. #3]; (3) Plaintiff's Motion for Summary Judgment [doc. #11]; (4) Plaintiff's Motion for Leave to Proceed *In Forma Pauperis* [doc. #12]; and (5) Plaintiff's Motion to Correct Illegal Sentence, Motion to Reverse Illegal Sentence, Motion to Amend Complaint, and Motion for Summary Judgment [doc. #13].

The Plaintiff was granted *in forma pauperis* status on April 29, 2004 [doc. #4]. A Notice to *In Forma Pauperis* Litigants was issued to Plaintiff on May 7, 2004. That notice required Plaintiff to submit requested "USM 285" forms to this Court so that the Marshal's Service could serve Plaintiff's Complaint. Plaintiff did not do so, and thus none of Plaintiff's submissions to the Court have been served on the Defendants. Duplicate copies of the USM 285 forms are enclosed. If Plaintiff chooses to file a second amended complaint by March 7, 2005, Plaintiff is hereby given notice that if Plaintiff does not submit the requested USM 285 forms for service by the Marshal's Service **by March 7, 2005**, this case will be dismissed without prejudice.

IT IS SO ORDERED.

/s/ Mark R. Kravitz  
United States District Judge

**Dated at New Haven, Connecticut: February 7, 2005.**