

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 11-cv-01284-LTB

WYATT T. HANDY JR.,

Plaintiff,

v.

CITY OF SHERIDAN, Individually & Official Capacity,
DET. KRISTINE BRYANT, Individual & Official Capacity,
OFF. MIKE MONTOYA, Individually,
OFF. ROBERT ARELLANO, Individually,
OFF. NANCY SCHWAN, Individually, and
OFF. CLARK CAPE, Individually,

Defendants.

ORDER DENYING REINSTATEMENT OF CASE
AND DISMISSING COMPLAINT AND ACTION

At issue in this case is the “Motion for Court to Re-Open the Action” that Plaintiff filed on March 26, 2012. Previously, on July 7, 2011, the Court dismissed the action in part, stayed the action in part, and administratively closed the action. The Court instructed Mr. Handy that, if he desired to continue with this case after disposition of the criminal charges against him in state court, he must request to lift the stay within thirty days of the disposition of the criminal charge or within thirty days of the completion of state court appellate process.

In the Motion to Re-Open, Plaintiff asserts that the state court charges against him were resolved in his favor. Plaintiff also asserts in the Amended Complaint he submitted to the Court on March 26, 2012, that on or about August 18, 2011, he was acquitted of the charges at issue in this case. Plaintiff has failed to request that the stay

be lifted within thirty days of the disposition of the charges at issue in this case. The Court, therefore, will deny Plaintiff's request to reopen the case.

Finally, the Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this Order is not taken in good faith, and, therefore, *in forma pauperis* status will be denied for the purpose of appeal. See *Coppedge v. United States*, 369 U.S. 438 (1962). If Plaintiff files a notice of appeal he must also pay the full \$455 appellate filing fee or file a motion to proceed *in forma pauperis* in the United States Court of Appeals for the Tenth Circuit within thirty days in accordance with Fed. R. App. P. 24.

Accordingly, it is

ORDERED that Plaintiff's Motion for Court to Re-Open Action, Doc. No. 23, is denied. It is

FURTHER ORDERED that the Complaint and action are dismissed without prejudice pursuant to Fed. R. Civ. P. 41(b) for failure to comply with the Court's July 7, 2011 Order. It is

FURTHER ORDERED that the Motion to Amend Complaint, Doc. No. 20, is denied as moot. It is

FURTHER ORDERED that leave to proceed *in forma pauperis* on appeal is denied.

DATED April 2, 2012, at Denver, Colorado.

BY THE COURT:

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