

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 11-cv-02965-BNB

ELDRIDGE L. GRIFFIN,

Plaintiff,

v.

DIVISION OF COLORADO ADULT PAROLE,
PAROLE OFFICER ROBERTS, and
DEPARTMENT OF CORRECTIONS,

Defendants.

ORDER OF DISMISSAL

Plaintiff, Eldridge L. Griffin, initiated this action while he was an inmate at the El Paso County Jail in Colorado Springs, Colorado. On November 29, 2011, Magistrate Judge Boyd N. Boland entered an order granting Mr. Griffin leave to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915 in this action. Pursuant to § 1915(b)(1), Magistrate Judge Boland ordered Mr. Griffin either to pay an initial partial filing fee or show cause why he has no assets and no means by which to pay the initial partial filing fee. Mr. Griffin was warned that the complaint and the action would be dismissed without further notice if he failed either to pay the initial partial filing fee or to show cause within thirty days.

On December 12, 2011, the copy of Magistrate Judge Boland's November 29 order that was mailed to Mr. Griffin at the El Paso County Jail address he provided was returned to the Court undelivered. The returned envelope bears a sticker that reads

“RETURN TO SENDER, ATTEMPTED - NOT KNOWN, UNABLE TO FORWARD.” The envelope also bears a stamp that reads “RETURNED TO SENDER” and the reason checked is “Attempted - Not Known.”

Pursuant to Rule 10.1M. of the Local Rules of Practice of the United States District Court for the District of Colorado-Civil, a party must file a notice of new address and telephone number within five days of any change of address or telephone number. Mr. Griffin has failed to comply with the Court’s local rules and, as a result, he has failed within the time allowed either to pay the initial partial filing fee or to show cause why he is unable to pay the initial partial filing fee. Therefore, the complaint and the action will be dismissed.

Furthermore, the Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be 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 also must 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 the complaint and the action are dismissed without prejudice pursuant to Rule 41(b) of the Federal Rules of Civil Procedure because Plaintiff failed within the time allowed either to pay the initial partial filing fee or to show cause why he has no assets and no means by which to pay the initial partial filing fee. It is

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

DATED at Denver, Colorado, this 9th day of January, 2012.

BY THE COURT:

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