

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 12-cv-00511-BNB

ALBERT M. GRAHAM,

Plaintiff,

v.

THOMAS C. FISHER, M.D., (in his personal and professional capacity),
CARMEN MEYER, M.D., (in his/her personal and professional capacity),
ANDREA WHITE, P.A., (in his/her personal and professional capacity),
MARYBETH KALAMEYER, P.A., (in his/her personal and professional capacity),
PAULA FRANTZ, M.D., (in his/her personal and professional capacity), and
PHYSICIANS HEALTH PARTNERS,

Defendants.

ORDER OF DISMISSAL

Plaintiff, Albert M. Graham, was a prisoner in the custody of the Colorado Department of Corrections when he initiated this action. On March 26, 2012, Mr. Graham filed an amended pleading on the proper Prisoner Complaint form asserting constitutional claims pursuant to 42 U.S.C. § 1983. On April 26, 2012, Magistrate Judge Boyd N. Boland entered an order directing Mr. Graham to file a second amended complaint that complies with the pleading requirements of Rule 8 of the Federal Rules of Civil Procedure. Mr. Graham was warned that the action would be dismissed without further notice if he failed to file an amended complaint within thirty days.

On May 7, 2012, the copy of the April 26 order that was mailed to Mr. Graham was returned to the Court undelivered. On May 30, 2012, Mr. Graham filed a notice of change of address indicating that he had been released on parole. Pursuant to a

minute order entered on June 1, 2012, a copy of the April 26 order was mailed to Mr. Graham at his new address, and Mr. Graham was advised that he must file a second amended complaint within thirty days from the date of the minute order.

Mr. Graham has failed to file a second amended complaint within the time allowed. Therefore, the action will be dismissed without prejudice for failure to comply with a court order.

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, the amended complaint, and the action are dismissed without prejudice pursuant to Rule 41(b) of the Federal Rules of Civil Procedure because Mr. Graham failed to comply with a court order. It is

FURTHER ORDERED that leave to proceed *in forma pauperis* on appeal is denied without prejudice to the filing of a motion seeking leave to proceed *in forma pauperis* on appeal in the United States Court of Appeals for the Tenth Circuit.

DATED at Denver, Colorado, this 11th day of July, 2012.

BY THE COURT:

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