

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 12-cv-02274-BNB

DANNY MARTINEZ,

Plaintiff,

v.

JOHN CLANCY,  
MARY CARNELL, and  
APRIL CALDWELL,

Defendants.

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ORDER OF DISMISSAL

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On October 1, 2012, Magistrate Judge Boyd N. Boland entered an order directing Plaintiff, Danny Martinez, to file an amended complaint that clarifies the claims he is asserting and that complies with the pleading requirements of Rule 8 of the Federal Rules of Civil Procedure. Mr. Martinez was warned that the action would be dismissed without further notice if he failed to file an amended complaint within thirty days.

Mr. Martinez has failed to file an amended complaint within the time allowed and he has failed to respond in any way to Magistrate Judge Boland's October 1 order. 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 Prisoner Complaint and the action are dismissed without prejudice pursuant to Rule 41(b) of the Federal Rules of Civil Procedure because Mr. Martinez 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 7<sup>th</sup> day of November, 2012.

BY THE COURT:

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