

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 12-cv-02368-BNB

MONTGOMERY WOLFBEAR COYOTE, and  
MARION ORNESTUS HARPER, III,

Plaintiffs,

v.

MONT. CO. SHERIFF'S DEPT.,  
MONTEZUMA CO. BOARD OF COMM.,  
CITY OF CORTEZ, Colorado,  
CORTEZ POLICE DEPT. OFF. MARTINEZ,  
22<sup>ND</sup> JUDICIAL DIST. JUDGES,  
DOUGLAS WALKER,  
TODD PLEWE,  
JENNILYNNE LAWRENCE, and  
DIST. ATTY. RUSSELL WESLEY,

Defendants.

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ORDER OF DISMISSAL

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Plaintiff, Marion Ornestus Harper, III, initiated this action by filing *pro se* a Complaint. Although the Complaint lists two Plaintiffs, only Mr. Harper signed the Complaint.

On September 10, 2012, Magistrate Judge Boyd N. Boland entered an order directing Mr. Harper to file an amended complaint that complies with the pleading requirements of Rule 8 of the Federal Rules of Civil Procedure. Mr. Harper was warned that the action would be dismissed without further notice if he failed to file an amended complaint within thirty days.

Mr. Harper 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 September 10 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 complaint and the action are dismissed without prejudice pursuant to Rule 41(b) of the Federal Rules of Civil Procedure because Mr. Harper 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 17<sup>th</sup> day of October, 2012.

BY THE COURT:

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