

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 12-cv-02674-BNB

DAVID QUINLAN,

Plaintiff,

v.

TOM CLEMENTS,  
STEVE HARTLEY,  
DARYL VIGIL,  
ANTHONY A. DECESARO,  
CONNIE GARCIA, and  
DENNIS DUNSMOOR,

Defendants.

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ORDER OF DISMISSAL

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Plaintiff, David Quinlan, is a prisoner in the custody of the Colorado Department of Corrections who was incarcerated at the Arkansas Valley Correctional Facility in Crowley, Colorado, when he initiated this action by filing *pro se* a civil rights complaint (ECF No. 1) for money damages and injunctive relief. He since has informed the Court he is incarcerated at the Denver Reception and Diagnostic Center. Mr. Quinlan paid the \$350.00 filing fee.

On December 12, 2012, Magistrate Judge Boyd N. Boland entered an order (ECF No. 6) directing Mr. Quinlan to file within thirty days an amended complaint that asserted what, if any, of his constitutional rights were being violated; alleged an injury; complied with the pleading requirements of Rule 8 of the Federal Rules of Civil Procedure; and asserted the personal participation of each named Defendant. The

December 12 order warned Mr. Quinlan that the complaint and the action would be dismissed without prejudice and without further notice if he failed to file an amended complaint as directed within the time allowed.

On January 3, 2013, Magistrate Judge Boland entered a minute order (ECF No. 8) denying as premature Mr. Quinlan's motion for appointment of counsel and reminding him he continued to have thirty days from the December 12 order in which to file an amended complaint as directed. Magistrate Judge Boland again warned Mr. Quinlan that failure to do so within the time allowed would result in the dismissal of the instant action.

Mr. Quinlan has failed within the time allowed to file an amended complaint as directed or otherwise to communicate with the Court in any way. Therefore, the complaint and the action will be dismissed without prejudice for failure to file an amended complaint as directed within the time allowed, and for his failure to prosecute.

Finally, the Court certifies pursuant to § 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 Mr. Quinlan files a notice of appeal he also must pay the full \$455.00 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 Rules 8 and 41(b) of the Federal Rules of Civil Procedure for the failure of

Plaintiff, David Quinlan, within the time allowed, to file an amended complaint as directed in the order of December 12, 2012, and for his failure to prosecute. It is

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

FURTHER ORDERED that any pending motions are denied as moot.

DATED at Denver, Colorado, this 22nd day of January, 2013.

BY THE COURT:

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