

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 12-cv-02998-BNB

JOSEPH JON DREISMEIER,

Plaintiff,

v.

TOM CLEMENTS (Executive Director CDOC),  
JAMES FALK (Warden SCF),  
RICHARD MISCHIARA (C/O IV at SCF),  
C/O MCCORMICK (C/O III at SCF),  
C/O CONEY (C/O II at SCF),  
C/O BRUNKHARDT (C/O I at SCF), and  
LARRY GRAHAM (Investigator for Inspector General's Office),

Defendants.

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ORDER OF DISMISSAL

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Plaintiff, Joseph Jon Dreismeier, has failed to comply within the thirty days allowed with the directives of the order of September 9, 2013.

The September 9 order directed the clerk of the Court to (1) substitute the temporary address of 216 North Race Street, Fountain, CO 80817, listed on the August 12, 2013 order (ECF No. 22) of the United States Court of Appeals for the Tenth Circuit for the Sterling Correctional Facility address Mr. Dreismeier had on file with this Court; (2) mail to Mr. Dreismeier, together with a copy of the September 9 order, the proper forms for filing a nonprisoner Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 and a Prisoner Complaint; and (3) remail to Mr. Dreismeier at his Fountain, Colorado, address a copy of the order reinstating the case (ECF No. 24) filed

on September 6, 2013, because the copy of the order mailed to Mr. Dreismeier on September 6 was directed to his former address at the Sterling Correctional Facility.

In addition, the September 9 order directed Mr. Dreismeier, within thirty days from the date of the order, to (1) provide the Court with a certified copy of his inmate trust fund account from April 9 through July 2, 2013, so that the Court could determine, pursuant to the Tenth Circuit August 12 order, what portion of the \$455.00 appellate filing fee he owed, if any; (2) submit an amended nonprisoner Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 or, alternatively, pay the full \$350.00 filing fee owed to pursue his claims in this action; (3) file a second amended Prisoner Complaint that complied with the pleading requirements of Rule 8(a) of the Federal Rules of Civil Procedure and other directives as discussed in the September 9 order; and (4) use the forms mailed to him by the clerk of the Court in curing the designated deficiencies, unless he elected to pay the \$350.00 filing fee in lieu of filing an amended Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915. The September 9 order noted that if Mr. Dreismeier failed to file a second amended Prisoner Complaint that complied with the September 9 order within the time allowed, some claims and Defendants in this action may be dismissed without further notice.

Mr. Dreismeier has failed, within the time allowed, to comply with any of the directives of the September 9 order or otherwise communicate with the Court in any way. Therefore, the amended Prisoner Complaint and the action will be dismissed for failure to comply with the September 9 order and for failure to prosecute.

Finally, 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 Mr. Dreismeier 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 amended Complaint (ECF No. 6) and the action are dismissed without prejudice pursuant to Rule 41(b) of the Federal Rules of Civil Procedure for the failure of Plaintiff, Joseph Jon Dreismeier, within the time allowed, to comply with the directives of the order of September 9, 2013 (ECF No. 25), 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 21<sup>st</sup> day of October, 2013.

BY THE COURT:

s/Christine M. Arguello  
CHRISTINE M. ARGUELLO  
United States District Judge, for  
LEWIS T. BABCOCK  
Senior Judge, United States District Court