

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 13-cv-00430-BNB

TIMOTHY DOYLE YOUNG,

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

ORDER OF DISMISSAL

Plaintiff, Timothy Doyle Young, is in the custody of the United States Bureau of Prisons and currently is incarcerated at ADX in Florence, Colorado. Originally, Mr. Young, acting *pro se*, initiated this action by filing a habeas petition and an amended petition in the United States District Court for the Northern District of California. The Northern District of California determined that the petition sets forth conditions of confinement claims and is properly filed in the United States District Court for the District of Colorado. The Northern District of California entered an order on January 18, 2013, that transferred the action to this Court.

In an order entered on February 19, 2013, Magistrate Judge Boyd N. Boland instructed Mr. Young to submit his claims on a Court-approved form used in filing prisoner complaints. Mr. Young also was instructed to submit to the Court a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 and a certified copy of his inmate trust fund account statement for the six months prior to the filing of the instant action, if he desired to proceed *in forma pauperis*. Otherwise, he was directed to pay the \$350.00 filing fee prior to proceeding in this action.

After review of Mr. Young's pleadings, the Court agrees that his claims properly are asserted in a prisoner complaint. Mr. Young has failed to communicate with the Court since the order entered on February 19, 2013. As a result, he has failed to submit his claims on a Court-approved form used in filing prisoner complaints, and he has failed either to pay the \$350.00 filing fee in full or to submit a proper 28 U.S.C. § 1915 Motion and Affidavit along with a certified trust fund account statement for the six months preceding the filing date of this action within the time allowed. The action, therefore, will be dismissed.

The Court also certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this Order is not taken in good faith, and *in forma pauperis* status is denied for the purpose of appeal. See *Coppedge v. United States*, 369 U.S. 438 (1962). If Mr. Young files a notice of appeal he must pay the full \$455.00 appellate filing fee or file a motion to proceed *in forma pauperis* in the Tenth Circuit within thirty days in accordance with Fed. R. App. P. 24. Accordingly, it is

ORDERED that the action is dismissed without prejudice pursuant to Fed. R. Civ. 41(b) for failure to comply with the February 19, 2013 Order and cure deficiencies. It is

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

DATED at Denver, Colorado, this 29th day of March, 2013.

BY THE COURT:

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