

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 13-cv-00615-BNB

SEAN ANTHONY RIKER (actually named as Sean Anthony Ricker [sic]),

Plaintiff,

v.

TAYLOR ANNE MORRISON, and
CHAD MICHAEL MORRISON,

Defendants.

ORDER OF DISMISSAL

Plaintiff, Sean Anthony Riker, is in the custody of the Wisconsin state authorities and is incarcerated at the Secure Program Facility in Boscobel, Wisconsin. He initiated this action on March 8, 2013 by filing *pro se* a Complaint.

On March 12, 2013, Magistrate Judge Boyd N. Boland reviewed the Complaint and determined that it was deficient because it was not submitted on the court-approved form. Magistrate Judge Boland further determined that Mr. Riker had failed to file a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915, or to pay the \$350.00 filing fee. Accordingly, Magistrate Judge Boland issued an order directing Mr. Riker to file within thirty (30) days an amended Prisoner Complaint and a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 on the court-approved forms. The March 12 Order warned Plaintiff that failure to comply with the Order by the court-ordered deadline would result in dismissal of this action without further notice.

On March 22, 2013, Mr. Riker filed a letter with the Court [Doc. # 5] requesting copies of the court-approved forms necessary to comply with the March 12 Order. [Doc. # 5]. In a March 25, 2013 Minute Order, Magistrate Judge Boland directed the Clerk of the Court to send to Mr. Riker copies of the forms. [Doc. # 6]. Magistrate Judge Boland also granted Mr. Riker an extension of time, to April 25, 2013, to comply with the March 12 Order. [*Id.*]. The Clerk mailed the forms to Plaintiff on March 25, 2013. [Doc. # 7].

On April 1, 2013, Mr. Riker filed a letter with the Court [Doc. # 8] asking the Clerk to send him copies of his original Complaint. The Court issued a Minute Order on April 25, 2013, advising Plaintiff that he must pay in advance for the requested copies, at a cost of \$.50 per page. [Doc. # 9]. Magistrate Judge Boland also granted Mr. Riker an additional extension of time, to May 28, 2013, to comply with the March 12 Order. [*Id.*].

Mr. Riker has now failed to file a Prisoner Complaint and Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 on the court-approved forms, or to pay the \$350.00 filing fee. He has not communicated with the Court since April 1, 2013. Accordingly, this action will be dismissed.

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 Plaintiff files a notice of appeal he must also 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 this action are dismissed without prejudice for

the failure of Plaintiff, Sean Anthony Riker, to comply with the Court's March 12, 2013 Order Directing Plaintiff to Cure Deficiencies and for failure to prosecute. It is

FURTHER ORDERED that no certificate of appealability will issue because jurists of reason would not debate the correctness of this procedural ruling and Mr. Riker has not made a substantial showing of the denial of a constitutional right. It is

FURTHER ORDERED that leave to proceed *in forma pauperis* on appeal is denied. Mr. Riker may file a motion in the Tenth Circuit Court of Appeals.

DATED at Denver, Colorado, this 6th day of June, 2013.

BY THE COURT:

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