

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 13-cv-00959-BNB

EARL J. CROWNHART,

Applicant,

v.

JOHN SUTHERS, and
JAMES X. QUINN,

Respondents.

ORDER OF DISMISSAL
AND IMPOSITION OF SANCTIONS

On May 8, 2013, Magistrate Judge Boyd N. Boland ordered Applicant, Earl J. Crownhart, to respond and show cause within thirty days why he should not be enjoined from filing any civil action in this Court without representation of an attorney. Applicant has failed to respond within the time allowed.

“[T]he right of access to the courts is neither absolute nor unconditional, and there is no constitutional right of access to the courts to prosecute an action that is frivolous or malicious.” *Tripati v. Beaman*, 878 F.2d 351, 353 (10th Cir. 1989) (citations omitted) (per curiam). “Federal courts have the inherent power under 28 U.S.C. § 1651(a) to regulate the activities of abusive litigants by imposing carefully tailored restrictions in appropriate circumstances.” *See Andrews v. Heaton*, 483 F.3d 1070, 1077 (10th Cir. 2007) (citing *Sieverding v. Colo. Bar. Ass’n*, 469 F.3d 1340, 1343 (10th Cir. 2006); *Tripati v. Beaman*, 878 F.2d 351, 351 (10th Cir. 1989)). “There is strong precedent establishing the inherent power of federal courts to regulate the activities of

abusive litigants by imposing carefully tailored restrictions under the appropriate circumstances,” *Cotner v. Hopkins*, 795 F.2d 900, 902 (10th Cir. 1986), and “where, as here, a party has engaged in a pattern of litigation activity which is manifestly abusive, restrictions are appropriate,” *In re Winslow*, 17 F.3d 314, 315 (10th Cir. 1994).

The Court has reviewed the cases Magistrate Judge Boland referred to in the May 8 Order to Show Cause. It is apparent that Applicant is not capable of proceeding *pro se* in litigation in this Court and an injunction restricting further filings is appropriate, as provided for in *Tripati*, 878 F.2d at 351. Applicant has a lengthy and abusive history, and the Court has provided a guideline to him to obtain permission to file an action, which he received notice and an opportunity to oppose before it is implemented. *Tripati*, 878 F.2d at 353-54. The Court, therefore, will enjoin Applicant from filing any future *pro se* actions in this Court.

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, therefore, *in forma pauperis* status is denied for the purpose of appeal. See *Coppedge v. United States*, 369 U.S. 438 (1962). If Applicant 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 Tenth Circuit within thirty days in accordance with Fed. R. App. P. 24. Accordingly, it is

ORDERED that Applicant is enjoined from filing any future civil actions in this Court, in which he is the proponent of a claim, without representation of an attorney licensed to practice in the State of Colorado, unless he first obtains leave of Court by a judicial officer to proceed *pro se* in the action. It is

FURTHER ORDERED that in any future *pro se* pleadings Applicant submits to

this Court the pleadings shall be reviewed by a judicial officer pursuant to D.C.COLO.CivR 8.2 as follows: (1) first by a magistrate judge to determine whether the filing is without merit, repetitive, frivolous, or is not in keeping with Fed. R. Civ. P. 8; and (2) second by a district judge, if a magistrate judge finds the pleading to be without merit, repetitive, frivolous, or not in keeping with Fed. R. Civ. P. 8, who shall determine whether or not the pleading should proceed. It is

FURTHER ORDERED that this Application is denied and the action is dismissed with prejudice pursuant 28 U.S.C. § 1915(e)(2)(B)(i). It is

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

FURTHER ORDERED that all pending motions are denied as moot.

DATED at Denver, Colorado, this 14th day of June, 2013.

BY THE COURT:

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