

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 13-cv-02071-BNB

ANDRE LEFFEBRE,¹

Plaintiff,

v.

BLAKE R. DAVIS,
DAVID BERKEBILE,
CAPTAIN KRIST,
J. COULSON,
R. DERR,
CHRISTOPHER B. SYNSVOLL,
A. OSAGIE, and
D. ALFRED,

Defendants.

ORDER OF DISMISSAL

On September 6, 2013, the Court denied Plaintiff leave to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915 because he is subject to the filing restriction in § 1915(g). The Court also ordered Plaintiff to pay the full amount of \$400.00 (\$350.00 filing fee, plus a \$50.00 administrative fee) within thirty days if he wishes to pursue his claims in this action. The Court warned Plaintiff that the action would be dismissed without further notice if he failed to pay the filing fee within thirty days.

On November 29, 2013, Plaintiff's appeal from the order denying him leave to proceed *in forma pauperis* was dismissed and the mandate was issued. On December

¹Plaintiff's last name in the caption of the Prisoner Complaint is "Leffebrea" although that appears to be a misspelling because he uses the name "Leffebre" throughout the Prisoner Complaint and that is how his last name is spelled in the certified account statement submitted with the motion seeking leave to proceed *in forma pauperis*. (See ECF No. 3 at 3-5.)

2, 2013, Plaintiff was directed by minute order to pay the full amount of \$400.00 on or before December 16, 2013, and he again was advised that the action would be dismissed without further notice if he failed to pay the full amount of \$400.00.

Plaintiff has failed within the time allowed to pay the filing and administrative fees as directed and he has failed to respond in any way to the December 2 minute order. Therefore, the action will be dismissed for failure to pay the required filing and administrative fees.

Furthermore, 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 also must pay the full \$505 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 Rule 41(b) of the Federal Rules of Civil Procedure because Plaintiff failed to pay the required filing and administrative fees as directed. It is

FURTHER ORDERED that leave to proceed *in forma pauperis* on appeal is denied without prejudice to the filing of a motion seeking leave to proceed *in forma pauperis* on appeal in the United States Court of Appeals for the Tenth Circuit.

DATED at Denver, Colorado, this 23rd day of December, 2013.

BY THE COURT:

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