

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 13-cv-03104-BNB

ROBERT E. LEWIS JR.,

Plaintiff,

v.

DENVER CITY JAIL,
D.O.C.,
DISTRICT 6 POLICE,
JUDGE RAYMOND N. SATTER, and
PUBLIC DEFENDER'S OFFICE,

Defendants.

ORDER OF DISMISSAL

Plaintiff, Robert E. Lewis Jr., currently is detained at the Denver County Jail in Denver, Colorado. Plaintiff initiated this action by filing *pro se* a Prisoner Complaint and a Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915. After review of the Complaint, Magistrate Judge Boyd N. Boland determined that Plaintiff failed to assert personal participation by properly named defendants and present his claims in keeping with *Nasious v. Two Unknown B.I.C.E. Agents*, 492 F.3d 1158, 1163 (10th Cir. 2007). Magistrate Judge Boland directed Plaintiff to file an Amended Complaint. Plaintiff was given thirty days to file the Amended Complaint. Plaintiff has failed to communicate with the Court and as a result has failed to file the Amended Complaint within the time allowed.

Magistrate Judge Boland correctly instructed Plaintiff to amend and assert personal participation and to comply with *Nasious*. Because Plaintiff has failed to file an

Amended Complaint within the time allowed the action will be dismissed.

Finally, the Court 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 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 \$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 action are dismissed without prejudice pursuant to Fed. R. Civ. P. 41(b) for failure to file an Amended Complaint and for failure to prosecute. It is

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

DATED at Denver, Colorado, this 21st day of January, 2014.

BY THE COURT:

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