

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 13-cv-03120-BNB

ISAAC ROGER ACEVES ("SOLOMON"),

Plaintiff,

v.

THE COLORADO DEPARTMENT OF CORRECTIONS, and
COLORADO STATE PENITENTIARY,

Defendants.

ORDER OF DISMISSAL

Plaintiff, Isaac Roger Aceves, is in the custody of the Colorado Department of Corrections and is incarcerated at the Colorado State Penitentiary. He initiated this action by filing a Prisoner Complaint. Mr. Aceves has been granted leave to proceed pursuant to 28 U.S.C. § 1915 with payment of an initial partial filing fee.

On December 2, 2013, Magistrate Judge Boyd N. Boland reviewed the Prisoner Complaint and determined that it was deficient because it failed to comply with the pleading requirements of Rule 8 of the Federal Rules of Civil Procedure. Magistrate Judge Boland ordered Mr. Aceves to file an Amended Complaint on the court-approved Prisoner Complaint form within thirty (30) days of the December 2, 2013 Order. Magistrate Judge Boland warned Plaintiff in the December 2 Order that failure to file an Amended Complaint would result in dismissal of the action without further notice.

On December 6, 2013, Mr. Aceves filed a document that he described as his "Amended Complaint." (ECF No. 10). However, because the document was submitted

in a letter form instead of on the court-approved Prisoner Complaint form, Magistrate Judge Boland issued a minute order on December 9, 2012 striking the “Amended Complaint.” (ECF No. 11). In the December 9 minute order, Magistrate Judge Boland granted Mr. Aceves an additional thirty (30) days to file his Amended Complaint on the court-approved form as directed in the December 2 Order. Again, Plaintiff was warned that failure to comply with court orders would result in dismissal of the action without further notice.

Mr. Aceves filed a letter with the Court on December 30, 2013 (ECF No. 12) that is generally unintelligible but that appears to criticize the court’s orders. Plaintiff has not filed an Amended Complaint on the court-approved form by the court-ordered deadline. Accordingly, it is

ORDERED that this action is DISMISSED without prejudice pursuant to Rule 41(b) of the Federal Rules of Civil Procedure for the failure of Plaintiff, Isaac Roger Aceves, to comply with the December 2, 2013 Order Directing Plaintiff to File an Amended Complaint on the court-approved form and the December 9, 2013 Minute Order extending the deadline for filing. It is

FURTHER ORDERED that leave to proceed *in forma pauperis* on appeal is denied for the purpose of appeal. 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. See

Coppedge v. United States, 369 U.S. 438 (1962). If Mr. Aceves 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.

DATED at Denver, Colorado, this 16th day of January, 2014.

BY THE COURT:

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