

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 14-cv-00398-BNB

MICHAEL THOMAS FOLSOM,

Plaintiff,

v.

FREMONT COUNTY SHERIFF OFFICE (F.C.S.O.),
SHERIFF BEICKER,
CAPTAIN RANCON,
SGT. GREEN,
SGT. MILLER,
DEP. S. CARTER, and
ALL OF THE FREMONT COUNTY SHERIFF'S OFFICE EMPLOYEES,

Defendants.

ORDER OF DISMISSAL

Plaintiff, Michael Thomas Folsom, is a prisoner in the custody of the Colorado Department of Corrections at the Fremont County Detention Center in Cañon City, Colorado. He has submitted *pro se* a Prisoner Complaint (ECF No. 1) pursuant to 42 U.S.C. § 1983, among other statutes, and a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 (ECF No. 3).

Magistrate Judge Boyd N. Boland determined that the submitted documents were deficient, and on February 18, 2014, entered an order (ECF No. 4) directing Mr. Folsom to cure certain deficiencies if he wished to pursue his claims in this Court in this action. The February 18 order directed Mr. Folsom to file within thirty days an amended Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 on

the Court-approved form together with a certified copy of his trust fund account statement for the six-month period immediately preceding this filing. Alternatively, the February 18 order directed Mr. Folsom to pay the \$400.00 filing fee for a civil rights action. The February 18 order also directed Mr. Folsom to file an amended Prisoner Complaint that complies with Rule 8 of the Federal Rules of Civil Procedure. The Prisoner Complaint, which generally contended Plaintiff was being sexually harassed, failed to assert any specific claims or request any relief.

The February 18 order specifically directed Mr. Folsom to obtain with the assistance of his case manager or the facility's legal assistant the Court-approved forms for filing a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 and a Prisoner Complaint, along with the applicable instructions, at www.cod.uscourts.gov, and to use those forms in curing the designated deficiencies and filing the amended Prisoner Complaint. The February 18 order warned Mr. Folsom that if he failed to cure the designated deficiencies within the time allowed, the Prisoner Complaint and action may be dismissed without further notice.

Mr. Folsom failed within the time allowed to comply with the directives of the February 18 order or otherwise communicate with the Court in any way. Therefore, the Complaint and the action will be dismissed without prejudice for Mr. Folsom's failure to cure the designated deficiencies and file an amended Prisoner Complaint as directed within the time allowed, and for his failure to prosecute.

Finally, the Court certifies pursuant to § 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 Mr. Folsom files a notice of appeal he also must pay the full \$505.00 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 (ECF No. 1) and the action are dismissed without prejudice pursuant to Rule 41(b) of the Federal Rules of Civil Procedure for the failure of Plaintiff, Michael Thomas Folsom, within the time allowed to cure the designated deficiencies and file an amended Prisoner Complaint as directed in the order of February 18, 2014, and for his failure to prosecute. 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. It is

FURTHER ORDERED that any pending motions are denied as moot.

DATED at Denver, Colorado, this 10th day of April, 2014.

BY THE COURT:

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