

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 14-cv-02243-BNB

DAVID E. BIRDSALL,

Plaintiff,

v.

COLORADO COALITION FOR HOMELESS,  
MICHEL DICKERSON, and  
CINDY SIMMERI,

Defendants.

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ORDER OF DISMISSAL

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Plaintiff, David E. Birdsall, initiated this action by filing *pro se* a Complaint (ECF No. 1). On August 18, 2014, Magistrate Judge Boyd N. Boland ordered Mr. Birdsall to file an amended complaint that lists an address for each Defendant and that complies with the pleading requirements of Rule 8 of the Federal Rules of Civil Procedure. Mr. Birdsall was warned that the action would be dismissed without further notice if he failed to file an amended complaint within thirty days.

On August 22, 2014, Mr. Birdsall filed a motion (ECF No. 6) requesting an extension of time to file an amended complaint and appointment of counsel to file a class action. On August 25, 2014, Magistrate Judge Boland entered a minute order denying the motion without prejudice because Mr. Birdsall failed to explain why he needed additional time to file an amended complaint and, in the absence of a short and plain statement of the claims being asserted, Magistrate Judge Boland was unable to

determine whether appointment of counsel is appropriate.

Mr. Birdsall has failed to file an amended complaint within the time allowed. Therefore, the action will be dismissed without prejudice for failure to comply with a court order. 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 (ECF No. 1) and the action are dismissed without prejudice pursuant to Rule 41(b) of the Federal Rules of Civil Procedure because Mr. Birdsall failed to comply with a court order. 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 24<sup>th</sup> day of September, 2014.

BY THE COURT:

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