

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 14-cv-02586-GPG

JOSHUA SUTTON,

Plaintiff,

v.

ISHA ROBERTS,
DANIEL MARIANO,
PETER WIEDMEYER,
DEBRA TOTA,
DEBRAH ROMANO,
MASON KATE,
MARILYN GIFFORD,
GARY WYBERG,
BILL THIEBOUT,
ATELLE JONES, and
JEFF CHOSTNER,

Defendants.

ORDER OF DISMISSAL

Plaintiff Joshua Lamont Sutton is in the custody of the Colorado Department of Corrections and currently is incarcerated at the Centennial Correctional Facility in Cañon City, Colorado. Plaintiff initiated this action by filing *pro se* a Prisoner Complaint pursuant to 42 U.S.C. § 1983 and a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915. Magistrate Judge Boyd N. Boland reviewed the Complaint and the § 1915 motion, determined the filings were deficient, and directed Plaintiff to cure the deficiencies. Plaintiff cured the deficiencies and was granted leave to proceed pursuant to § 1915 on October 23, 2014.

Magistrate Judge Boland then reviewed the merits of the Complaint and found that the Complaint failed to comply with Fed. R. Civ. P. 8. Plaintiff was directed to amend the complaint and assert personal participation by each named defendant. Plaintiff further was directed to state what each defendant did to him, when the action was done, how the action harmed him, and what specific legal right the defendant violated. Magistrate Judge Boland warned Plaintiff that if he failed to comply with the Order to Amend within the time allowed the Court would dismiss the action without further notice.

Plaintiff now has failed to comply with the Court's October 27, 2014 Order within the time allowed. The Court finds Magistrate Judge Boland correctly determined that Plaintiff failed to comply with Rule 8 and required him to amend the Complaint. The Court, therefore, will dismiss the action for failure to comply with a Court order and to prosecute.

The Court also 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 paupers* status is 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 paupers* in 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 paupers* on appeal is denied. It is

FURTHER ORDERED that the Clerk of the Court is directed to correct Plaintiff's address on the Docket. Plaintiff is located at the Centennial Correctional Facility.

DATED at Denver, Colorado, this 8th day of December, 2014.

BY THE COURT:

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