

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 14-cv-02633-BNB

JOSEPH SCOTT CARTER,

Plaintiff,

v.

KATHRYN ANN HEROLD, Attorney #40075, and
20TH JUDICIAL DISTRICT COURTS OF BOULDER, CO,

Defendants.

ORDER OF DISMISSAL

Plaintiff, Joseph Scott Carter, is a prisoner in the custody of the Colorado Department of Corrections at the San Carlos Correctional Facility in Pueblo, Colorado. He initiated this action by filing *pro se* a Prisoner Complaint (ECF No. 1) pursuant to 42 U.S.C. § 1983. Mr. Carter has been granted leave to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915.

On September 25, 2014, Magistrate Judge Boyd N. Boland entered an order (ECF No. 5) directing Mr. Carter to submit within thirty days on the Court-approved form an amended Prisoner Complaint that did not seek to challenge the validity of his criminal conviction or sentence or sue improper parties, but did comply with the pleading requirements of Rule 8 of the Federal Rules of Civil Procedure and allege the personal participation of each named defendant.

Mr. Carter has failed within the time allowed to file the amended Prisoner Complaint as directed in the September 25 order or otherwise communicate with the Court in any way. The Prisoner Complaint and the action will be dismissed without

prejudice for failure to comply with the September 25 order as directed within the time allowed and for Mr. Carter's 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. Carter 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.

ORDERED that the Prisoner 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, Joseph Scott Carter, to submit within the time allowed on the Court-approved form an amended Prisoner Complaint that complied with the order of September 25, 2014, and for his failure to prosecute. It is

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

FURTHER ORDERED that any pending motions are denied as moot.

DATED at Denver, Colorado, this 6th day of November, 2014.

BY THE COURT:

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