

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 14-cv-02670-GPG

CALVIN JOHNSON, JR.,

Plaintiff,

v.

JOHN DOE, Deputy Director of Colorado Prisons Operations (official capacity), and
JOHN/JANE DOE, "Control" Staff Working Sterling Facility Living Unit 8 on 07-26-14
(official capacity),

Defendants.

ORDER OF DISMISSAL

Plaintiff, Calvin Johnson, Jr., is a prisoner in the custody of the Colorado Department of Corrections. Mr. Johnson initiated this action by filing *pro se* a Prisoner Complaint (ECF No. 1). On October 6, 2014, Magistrate Judge Boyd N. Boland ordered Mr. Johnson to file an amended complaint that complies with the pleading requirements of Rule 8 of the Federal Rules of Civil Procedure. Mr. Johnson was warned that the action may be dismissed without further notice if he failed to file an amended complaint within thirty days.

On October 15, 2014, Mr. Johnson filed an incomplete amended complaint (ECF No. 8) that lacked a caption, provided no addresses for Defendants, and set forth claims with fewer supporting factual allegations than the original Prisoner Complaint. On October 21, 2014, Magistrate Judge Boland entered a minute order directing Mr. Johnson to file a complete amended Prisoner Complaint that complies with the

directives of the October 6 order. Mr. Johnson again was warned that the action may be dismissed if he failed to file a complete amended Prisoner Complaint within thirty days.

On November 21, 2014, Mr. Johnson filed a motion for appointment of counsel (ECF No. 11). On December 11, 2014, Magistrate Judge Gordon P. Gallagher entered a minute order denying the motion for appointment of counsel and granting Mr. Johnson another twenty days to file a complete amended Prisoner Complaint as previously directed. Mr. Johnson again was warned that the action may be dismissed if he failed to file a complete amended Prisoner Complaint within the time allowed.

Mr. Johnson has not filed a complete amended Prisoner Complaint within the time allowed as directed. Therefore, the action will be dismissed without prejudice for failure to prosecute and 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 Prisoner Complaint (ECF No. 1), the amended complaint (ECF No. 8), and the action are dismissed without prejudice pursuant to Rule 41(b) of the Federal Rules of Civil Procedure because Mr. Johnson failed to prosecute and 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 8th day of January, 2015.

BY THE COURT:

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