

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 14-cv-02762-BNB

MATTHEW ALAN SMITH,

Plaintiff,

v.

THE DEPARTMENT OF EDUCATION,

Defendant.

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ORDER OF DISMISSAL

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Plaintiff, Matthew Alan Smith, has submitted to the Court *pro se* a Complaint (ECF No. 1) and an Application to Proceed in District Court Without Prepaying Fees or Costs (Long Form) (ECF No. 2). For the reasons stated below, the action will be dismissed.

Mr. Smith is subject to a sanction order that restricts his ability to file *pro se* actions. See *Smith v. Byron White 10<sup>th</sup> Circuit Fed. Court*, No. 14-cv-00669-LTB (D. Colo. Mar. 10, 2014). The sanction order was entered on April 4, 2014. (See *id.* at ECF No. 7.) In the sanction order Mr. Smith was “prohibited from filing any new action in the United States District Court for the District of Colorado without the representation of a licensed attorney admitted to practice in the District of Colorado unless he obtains permission to proceed *pro se*” by following the procedures specified in the sanction order. In order to proceed *pro se*, the sanction order requires Mr. Smith to submit to the Court a motion requesting leave to file a *pro se* action that includes certain information

along with a copy of the proposed new pleading to be filed in the *pro se* action.

Mr. Smith is not represented by an attorney in the instant action, and he has not obtained leave of court to proceed *pro se*. Mr. Smith also has not filed a motion for leave to file a *pro se* action as required by the sanction order in 14-cv-00669-LTB, and he has made no attempt to comply with the terms of the sanction order. Therefore, the action will be dismissed for failure to comply with the sanction 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 and the action are dismissed without prejudice for failure to comply with the sanction order restricting Plaintiff's ability to file *pro se* actions in this Court. It is

FURTHER ORDERED that the Application to Proceed in District Court Without Prepaying Fees or Costs (Long Form) (ECF No. 2) is DENIED as moot. 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 16<sup>th</sup> day of October, 2014.

BY THE COURT:

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