

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 14-cv-02826-GPG

CHARLES JOHNSON, JR.,

Plaintiff,

v.

LELAND SILVER, Aurora Police,  
JOHN DOE 1, Aurora Police,  
JOHN DOE 2, Aurora Police,  
KIM HURT, Aurora Medical Supervisor,  
TERRY JONES, Aurora Police Chief,  
JANE DOE 1, Aurora Intake Nurse,  
JOHN DOE 3, Intake Sheriff Aurora,  
ESTHER, Division Chief ACDF,  
CONNIE WIKOUSION, Medical ACDF,  
JANE DOE 3, Intake Nurse ACDF,  
JANE DOE 4, Nurse ACDF,  
JOHN DOE LPN, ACDF, and  
UNIT DEPUTY, ACDF

Defendants.

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ORDER OF DISMISSAL

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Plaintiff, Charles Johnson, Jr., initiated this action while he was an inmate at the Denver County Jail in Denver, Colorado, by filing *pro se* an incomplete Prisoner Complaint (ECF No. 1). On November 12, 2014, Mr. Johnson filed an amended Prisoner Complaint (ECF No. 9) asserting three claims for relief pursuant to 42 U.S.C. § 1983. On January 14, 2015, Magistrate Judge Gordon P. Gallagher ordered Mr. Johnson to file a second amended complaint if he wishes to pursue all three claims in this action.

On January 30, 2015, the copy of an order granting Mr. Johnson leave to proceed *in forma pauperis* that was mailed to him at the Denver County Jail address he provided was returned to the Court undelivered. The returned envelope appears to be stamped “RELEASED” and bears a second stamp or sticker that reads “RETURN TO SENDER, ATTEMPTED – NOT KNOWN, UNABLE TO FORWARD.” (See ECF No. 19.) On February 5, 2015, the copy of Magistrate Judge Gallagher’s January 14 order that was mailed to Mr. Johnson at the Denver County Jail address he provided also was returned to the Court undelivered. That returned envelope clearly is stamped “RELEASED” and also bears a second stamp or sticker that reads “RETURN TO SENDER, ATTEMPTED – NOT KNOWN, UNABLE TO FORWARD.” (See ECF No. 20.)

Mr. Johnson has not filed a second amended complaint as directed and he has failed to respond in any way to Magistrate Judge Gallagher’s January 14 order. He also has failed to file a notice of change of address within five days of any change of address as required by the Court’s local rules. See D.C.COLO.LAttyR 5(c). Therefore, the action will be dismissed without prejudice for failure to prosecute and comply with the Court’s local rules. 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 Prisoner Complaint (ECF No. 9), 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 the Court's local rules. 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 20<sup>th</sup> day of February, 2015.

BY THE COURT:

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