

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 14-cv-03145-GPG

MARC HARRIS, a.k.a. MARC HARRIS KAPLAN,

Plaintiff,

v.

JOHN W. HICKENLOOPER, Governor State of Colorado, Individually and in Official Capacity,
JOHN W. SUTHERS, Attorney General State of Colorado, Individually and in Official Capacity,
GILBERT MARTINEZ, Chief Judge El Paso County, Individually and in Official Capacity,
DANIEL S. WILSON, Judge El Paso County, Individually and in Official Capacity,
LARRY MARTIN, Judge El Paso County, Individually and in Official Capacity,
DAN MAY, District Attorney El Paso County, Individually and in Official Capacity,
ANTHONY SANTOS, Assist. Dist. Attor. El Paso County, Individually and in Official Capacity,
TERRY MAKETA, Sheriff El Paso County, Individually and in Official Capacity,
STEVE BACH, Mayor Colorado Springs, Individually and in Official Capacity,
PETE CAREY, Police Chief Colorado Springs, Individually and in Official Capacity,
SHANE WHITE, City Attorney Colorado Springs, Individually and in Official Capacity,
and
JOHN/JANE DOES, 1-1000, Individually and in Official Capacity,

Defendants.

ORDER OF DISMISSAL

Plaintiff Marc Harris, a.k.a. Marc Harris Kaplan, initiated this action by filing *pro se* a Complaint and an Application to Proceed in District Court Without Prepayment of Fees or Costs. The Application was granted on December 30, 2014. Magistrate Judge Gordon P. Gallagher then reviewed the merits of the Complaint and found that the

Complaint failed to comply with Fed. R. Civ. P. 8., because Plaintiff failed to set forth a short and plain statement of her claims showing that he is entitled to relief.

Magistrate Judge Gallagher also found that the allegations are prolix and unintelligible and that Plaintiff may not assert diversity jurisdiction under 28 U.S.C. § 1332(a)(2) by claiming that he is foreign to the United States and Colorado, when he provides a Colorado address where he receives his mail, and he states that all named defendants are residents of Colorado. Magistrate Judge Gallagher 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.

On January 28, 2015, Plaintiff filed a Motion for Stay, ECF No. 6, that Magistrate Judge Gallagher denied because Plaintiff failed to state why he seeks a stay and to present any reasons that would justify a stay. The Motion to Stay, like Plaintiff's Complaint is prolix and unintelligible.

The Court finds Magistrate Judge Gallagher correctly determined that Plaintiff failed to comply with Rule 8 and required him to amend the Complaint. Because Plaintiff now has failed to comply with the December 30, 2014 Order within the time allowed, and also fails to assert an intelligible reason in the Motion to Stay why he is unable to do so, the Court 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 pauperis* 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 pampers* 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 a properly Amended Complaint within the time allowed and for failure to prosecute. It is

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

DATED at Denver, Colorado, this 17th day of February, 2015.

BY THE COURT:

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