

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 14-cv-03472-GPG

ANTHONY BUSSIE,

Plaintiff,

v.

[NO NAMED DEFENDANT],

Defendants.

ORDER OF DISMISSAL

Plaintiff, Anthony Bussie, is in the custody of the federal Bureau of Prisons at the Federal Medical Center in Butner, North Carolina. Mr. Bussie initiated this action by filing, *pro se*, a Letter (ECF No. 1) which is unintelligible. He also filed an Application to Proceed in District Court Without Prepaying Fees or Cost (ECF No. 3). The Court opened this case as a civil rights action pursuant to 28 U.S.C. § 1331 and *Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics*, 403 U.S. 388 (1971).

On January 7, 2015, Magistrate Judge Gordon P. Gallagher reviewed Mr. Bussie's filings and determined that they were deficient. Magistrate Judge Gallagher directed Plaintiff to submit a Prisoner Complaint, that complied with the requirements of Fed. R. Civ. P. 8, on the court-approved Prisoner Complaint form. (ECF No. 4). Magistrate Judge Gallagher informed Mr. Bussie that he could obtain a copy of the court-approved form (with the assistance of his case manager or the facility's legal assistant), along with the applicable instructions, at www.cod.uscourts.gov. (*Id.*).

Magistrate Judge Gallagher warned Mr. Bussie in the January 7 Order that failure to comply by the court-ordered deadline would result in dismissal of this action without further notice. (*Id.*).

As part of the January 7 Order, Magistrate Judge Gallagher also directed Mr. Bussie to show cause, in writing, within 30 days, why he should not be denied leave to proceed *in forma pauperis* because he was subject to filing restrictions, pursuant to 28 U.S.C. § 1915(g). (*Id.*). On three or more prior occasions, while incarcerated, Mr. Bussie, has commenced an action in federal court that was dismissed on the grounds that it was frivolous, malicious, or failed to state a claim. (*Id.*).

Mr. Bussie did not file any response to the January 7 Order, nor has he filed a Prisoner Complaint on the court-approved form. Moreover, Plaintiff has not communicated with the Court since he initiated this action. Accordingly, it is

ORDERED that this action is DISMISSED without prejudice pursuant to Rule 41(b) of the Federal Rules of Civil Procedure for the failure of Plaintiff, Anthony Bussie, to comply with the January 7, 2015 Order Directing Plaintiff to Show Cause and to Cure Deficiencies. It is

FURTHER ORDERED that leave to proceed *in forma pauperis* on appeal is denied for the purpose of appeal. 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. See *Coppedge v. United States*, 369 U.S. 438 (1962). If Mr. Bussie files a notice of appeal he must also 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. It is

FURTHER ORDERED that the Application to Proceed in District Court Without Prepaying Fees or Costs (ECF No. 3) is DENIED as moot.

DATED February 18, 2015, at Denver, Colorado.

BY THE COURT:

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