

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 14-cv-03477-GPG

MARQUISE HARRIS,

Plaintiff,

v.

REGGIE OWENS,  
LUZ M. SANTIBANEZ, and  
SARATOGA CASINO,

Defendants.

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ORDER OF DISMISSAL

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Plaintiff, Marquise Harris, initiated this action by filing *pro se* a Complaint (ECF No. 1) asserting one claim for “Alienation of Affection against Defendant Reggie Owens who Knowingly and intentionally engage[d] in an immoral Relationship against the dignity and peace of Colorado by Cheating and engaging in Adulterous relationship with Plaintiff[’s] wife Luz Santibanez.” (ECF No. 1 at 2.) On January 7, 2015, Magistrate Judge Gordon P. Gallagher ordered Mr. Harris to show cause why the action should not be dismissed for lack of subject matter jurisdiction.

On January 12, 2015, the copy of an order granting Mr. Harris leave to proceed *in forma pauperis* that was mailed to him was returned to the Court undelivered. The returned envelope bears a stamp or sticker that reads “RETURN TO SENDER, INSUFFICIENT ADDRESS, UNABLE TO FORWARD.” (See ECF No. 6.) On January 27, 2015, the copy of Magistrate Judge Gallagher’s January 5 show cause order that

was mailed to Mr. Harris was returned to the Court undelivered for the same reason. (See ECF No. 7.)

After further examination of the address Mr. Harris provided for himself in the Prisoner Complaint (see ECF No. 1 at 2), it appeared that he had specified a unit number that was not included in the address listed on the mailings that were returned to the Court undelivered. That unit number was added to Plaintiff's address in the Court's docketing records and, on January 27, 2015, Magistrate Judge Gallagher entered a minute order directing the clerk of the Court to remail copies of the undelivered court orders to Mr. Harris at his current address.

On February 10, 2015, the copy of the January 27 minute order and enclosures mailed to Mr. Harris at his current address also was returned to the Court undelivered. The returned envelope includes a handwritten notation that reads "NOT HERE" and bears a stamp or sticker that reads "RETURN TO SENDER, UNABLE TO FORWARD, UNABLE TO FORWARD, RETURN TO SENDER." (See ECF No. 11.)

Mr. Harris has not shown cause as directed and he has failed to respond in any way to Magistrate Judge Gallagher's January 7 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) and the action are dismissed without prejudice pursuant to Rule 41(b) of the Federal Rules of Civil Procedure because Mr. Harris 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 2<sup>nd</sup> day of March, 2015.

BY THE COURT:

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