

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 15-cv-00437-GPG

**RYAN SEPOLEN,**

Applicant,

v.

**WALT PESTERFIELD**, Executive Director of Parole;  
**ELIAS DIGGINS**, Sheriff of Denver County Jail; and  
**THE ATTORNEY GENERAL OF THE STATE OF COLORADO,**

Respondent.

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**ORDER OF DISMISSAL**

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Applicant, Ryan Sepolen, initiated this action on March 2, 2015, by filing *pro se* an Application for Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241 (ECF No. 1).

On April 29, 2015, Respondents filed a Preliminary Response (ECF No. 13) and a Motion for Leave to File Exhibits as Restricted Documents (ECF No. 16). On April 30, 2015, this Court granted Respondents' Motion to Restrict (ECF No. 18). On May 11, 2015, the Order granting Respondents' Motion to Restrict was returned to the Court as undeliverable. The front of the envelope is stamped "Inmate No Longer At This Facility" "Return to Sender," "Not Deliverable as Addressed," and "Unable to Forward." ECF No. 19. The May 11, 2015 Order was mailed to Mr. Sepolen at his address of record in the instant action. The Colorado Department of Corrections website lists Mr. Sepolen as "P2 PAROLE-DENVER WEST METRO REGION."

On May 12, 2015, Magistrate Judge Gordon P. Gallagher entered an order directing Mr. Sepolen to show cause as to why the Complaint and this action should not

be dismissed for failure to comply with D.C. COLO. L Atty R 5(c) by filing a notice of change of address in a timely manner and for failure to prosecute this action (ECF No. 20). Mr. Sepolen was warned that the failure to comply with the Order to Show Cause would result in dismissal of this action without further notice.

A copy of the May 12, 2015 Order to Show Cause was mailed to Mr. Sepolen at his address of record (ECF No. 21). On May 26, 2015, that Order was returned to the Court. The front of the envelope is stamped "Inmate No Longer At This Facility," "Return to Sender," "Not Deliverable as Addressed," and "Unable to Forward." ECF No. 22.

Mr. Sepolen has failed to update his address as required by D.C.COLO. L Atty R 5(c) requiring attorneys and unrepresented parties to file their change of contact information no later than five days after the change and he has failed to communicate with the Court in any way since April 16, 2015. The Court, therefore, will dismiss the action for failure to respond to the Court's Order to Show Cause and failure 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 paupers* 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 respond to this Court's May

12, 2015 Order as directed 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 29<sup>th</sup> day of May, 2015.

BY THE COURT:

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