

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 15-cv-00468-GPG

MANUEL DePINEDA,

Plaintiff,

v.

BRANDON SHAFFER,

Defendant.

---

ORDER OF DISMISSAL

---

Plaintiff, Manuel DePineda, is a prisoner in the custody of the Colorado Department of Corrections. Mr. DePineda has submitted to the Court *pro se* a Prisoner Complaint (ECF No. 1) and a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 (ECF No. 3). For the reasons stated below, the action will be dismissed.

Mr. DePineda is subject to a sanction order that restricts his ability to file *pro se* actions in this court. *See DePineda v. State of Colorado*, No. 98-cv-02067-ZLW (D. Colo. Feb. 25, 1999). In 98-cv-02067-ZLW, Mr. DePineda was "prohibited from initiating a lawsuit in this Court unless he is represented by a licensed attorney admitted to practice in this Court or unless he obtains permission to proceed *pro se* by following the procedures listed in Appendix A." *Id.* at 1-2. The procedures listed in Appendix A to the sanction order entered in 98-cv-02067-ZLW require Mr. DePineda to submit to the Court a petition titled "Petition Pursuant to Court Order Seeking Leave to File a *Pro Se*

Action,” an affidavit, and a copy of the complaint or other papers sought to be filed *pro se*. Mr. DePineda is not represented by an attorney in this action and he has not obtained leave of court to proceed *pro se*. In fact, Mr. DePineda has not even filed a proper petition seeking leave of court to proceed *pro se* as required by the procedures set forth in Appendix A to the Court’s sanction order in 98-cv-02067-ZLW. Therefore, the complaint will be dismissed for failure to comply with the sanction order.

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 and the action are dismissed without prejudice for failure to comply with the sanction order restricting Plaintiff’s ability to file *pro se* actions in this Court. It is

FURTHER ORDERED that the Prisoner’s Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 (ECF No. 3) is DENIED as moot. 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 9<sup>th</sup> day of March, 2015.

BY THE COURT:

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