

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 15-cv-00729-GPG

MRS.-MR. THI BOWEN OR HAROLD RAY BOWEN

Plaintiff,

v.

MRS. CAROD,

Defendant.

ORDER OF DISMISSAL

Plaintiff, Mrs.-Mr. Thi Bowen or Harold Ray Bowen, currently resides in Denver, Colorado. Plaintiff initiated this action by filing *pro se* a Complaint and an Application to Proceed in District Court Without Prepaying Fees or Costs. Before Magistrate Judge Gordon P. Gallagher conducted an initial review, Plaintiff supplemented the Complaint and paid the \$400 filing fee.

Magistrate Judge Gallagher then reviewed the merits of the Complaint and found that the Complaint failed to comply with Fed. R. Civ. P. 8. Plaintiff was directed to amend the Complaint because the allegations are prolix and unintelligible and failed to set forth a clear statement of the basis for jurisdiction. Magistrate Judge Gallagher warned Plaintiff, in the August 19, 2015 Order to Amend, 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 August 24, 2015, Plaintiff filed a Letter, ECF No. 7, that for the most part is unintelligible. Magistrate Judge Gallagher, however, did determine that Plaintiff was requesting an extension of time to comply with the Order to Amend, and entered a Minute Order, ECF No. 8, on September 23, 2015, that granted him up to and including October 14, 2015, to do so. (The September 23 Minute Order was returned to the Court after the Court learned of Plaintiff's new address and sent a second minute order to him at the new address that granted another extension of time.)

Plaintiff submitted a second Letter, ECF No. 9, on October 1, 2015, informing the Court of a change of address. Magistrate Judge Gallagher entered a second Minute Order, ECF No. 10, on October 15, 2015, and directed the Clerk of the Court to resend the August 19 Order to Plaintiff at the new address. The October 15 Minute Order also allowed Plaintiff an additional twenty-one days to comply with the August 19 Order to Amend, even though Plaintiff did not request an extension of time. Plaintiff was instructed in the October 15 Minute Order that if he failed to comply within the time allowed the action would be dismissed without further notice.

Plaintiff now has failed to comply with the August 19, 2015 Order to Amend within the time allowed.

The Court finds Magistrate Judge Gallagher correctly determined that Plaintiff failed to comply with Rule 8 and required him to amend the Complaint. The Court, therefore, will dismiss the action for failure to comply with a Court order and to prosecute within the time allowed. "[D]ismissal is an appropriate disposition against a party who disregards court orders and fails to proceed as required by court rules." *United States ex rel. Jimenez v. Health Net, Inc.*, 400 F.3d 853, 855 (10th Cir. 2005).

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 an Amended Complaint 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 10th day of November, 2015.

BY THE COURT:

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