

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 15-cv-00912-GPG

DAVID E. BIRDSALL,

Plaintiff,

v.

COLORADO COALITION, and
MRS. RICE,

Defendants.

ORDER OF DISMISSAL

Plaintiff, David E. Birdsall, initiated this action by filing *pro se* a Title VII Complaint (ECF No. 1). On April 30, 2015, Magistrate Judge Gordon P. Gallagher ordered Mr. Birdsall to file an amended complaint that complies with the pleading requirements of Rule 8 of the Federal Rules of Civil Procedure. Mr. Birdsall was warned that the action would be dismissed without further notice if he failed to file an amended complaint within thirty days.

Mr. Birdsall has failed to file an amended complaint that complies with the pleading requirements of Rule 8 within the time allowed and he has failed to respond in any way to Magistrate Judge Gallagher's April 30 order. Therefore, the action will be dismissed without prejudice for failure to prosecute and comply with a court 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 Title VII 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. Birdsall failed to prosecute and comply with a court order. 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 5th day of June, 2015.

BY THE COURT:

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