

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 15-cv-01214-GPG

JERRY D. CARTER,

Plaintiff,

v.

CLEAR CREEK STORAGE, owner,

Defendants.

ORDER OF DISMISSAL

Plaintiff, Jerry D. Carter, currently is in custody in the Colorado Mental Health Institute at Pueblo (CMHIP). He was transferred there from the El Paso County Sheriff's Department sometime earlier this year. Plaintiff initiated this action by filing *pro se* a Prisoner Complaint (ECF No. 1) and an Application to Proceed in District Court Without Prepaying Fees or Costs (ECF No. 3).

On July 23, 2015, the Court denied Plaintiff leave to proceed in forma pauperis pursuant to 28 U.S.C. § 1915 because he is subject to the filing restriction in § 1915(g). The Court also ordered Plaintiff to pay the full amount of \$400.00 (\$350.00 filing fee, plus a \$50.00 administrative fee) within thirty days if he wishes to pursue his claims in this action. The Court warned Plaintiff that the action would be dismissed without further notice if he failed to pay the filing fee within thirty days.

Plaintiff has failed within the time allowed to pay the filing and administrative fees as directed and he has failed to respond in any way to the July 23, 2015 Order. Therefore, the action will be dismissed for failure to pay the required filing and administrative fees.

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 complaint and the action are dismissed without prejudice pursuant to Rule 41(b) of the Federal Rules of Civil Procedure because Plaintiff failed to pay the required filing and administrative fees as directed. 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 9th day of September, 2015.

BY THE COURT:

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