

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 15-cv-02074-GPG

LUKE IRVIN CHRISCO, Secured Party, individually and on behalf of all persons similarly situated,

Plaintiff,

v.

RICHARD F. RAEMISCH, Executive Dir. of the CDOC,

Defendant.

ORDER OF DISMISSAL

Plaintiff, Luke Irvin Chrisco, is a prisoner in the custody of the Colorado Department of Corrections. Mr. Chrisco initiated this action by filing *pro se* a Prisoner Complaint (ECF No. 1) pursuant to 42 U.S.C. § 1983. On October 28, 2015, Magistrate Judge Gordon P. Gallagher ordered Mr. Chrisco to file an amended complaint that includes all of the factual allegations he is asserting in support of his claim in the amended complaint rather than in a separate motion. Magistrate Judge Gallagher warned Mr. Chrisco that the action would be dismissed without further notice if he failed to file an amended complaint within thirty days.

Mr. Chrisco has failed to file an amended complaint within the time allowed and he has not responded in any way to Magistrate Judge Gallagher's October 28 order. Therefore, the action will be dismissed without prejudice for failure to prosecute and comply with a court order. The Court also 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 (ECF No. 1) and the action are dismissed without prejudice pursuant to Rule 41(b) of the Federal Rules of Civil Procedure because Mr. Chrisco 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. It is

FURTHER ORDERED that the pending Motion for Injunctive Relief (ECF No. 6) is denied as moot.

DATED at Denver, Colorado, this 9th day of December, 2015.

BY THE COURT:

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