

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 15-cv-02627-GPG

ANTOINE BRUCE,

Plaintiff,

v.

FEDERAL BUREAU OF PRISONS (BOP), and
F. DAVIS,

Defendants.

ORDER OF DISMISSAL

Plaintiff Antoine Bruce is in the custody of the Federal Bureau of Prisons and currently is housed at the United States Penitentiary in Florence, Colorado. Plaintiff initiated this action by filing *pro se* a Prisoner Complaint, and then subsequently a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915.

On December 15, 2015, Magistrate Judge Gordon P. Gallagher entered an order that acknowledges Plaintiff is subject to filing restrictions pursuant to 28 U.S.C. § 1915(g) and directs Plaintiff to file an amended complaint that complies with Fed. R. Civ. P. 8. Plaintiff was informed that an amended complaint is required so that the Court can determine if Defendant Davis's actions are the cause of any imminent danger of serious physical injury and a waiver of Plaintiff's filing restrictions under § 1915(g) is required. Magistrate Judge Gallagher instructed Plaintiff that the only proper filing at this time is an amended complaint that complies with the December 15, 2015 Order.

Rather than file an amended complaint that complies with Rule 8, Plaintiff filed an eighteen page pleading, ECF NO. 6, which is not an amended complaint and is not filed on a proper Court-approved form. Plaintiff also attached to the pleading copies of what appears to be a filing and a minute order entered in his pending criminal case, *United States v. Bruce*, No. 14-cr-00480-WYD, ECF Nos. 36 and 37 (D. Colo. filed Dec. 2, 2014).

Because Plaintiff now has failed to comply with the December 15, 2015 Order within the time allowed, by filing an amended complaint that conforms to the requirements set forth in Fed. R. Civ. P. 8., and that is submitted on a proper Court-approved form, the Court will dismiss this action.

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 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 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 action are dismissed without prejudice pursuant to Fed. R. Civ. P. 41(b) because Plaintiff failed to comply with the December 15, 2015 Order and to prosecute. It is

FURTHER ORDERED that leave to proceed *in forma paupers* on appeal is denied.

DATED at Denver, Colorado, this 21st day of January, 2016.

BY THE COURT:

s/Lewis T. Babcock
LEWIS T. BABCOCK, Senior Judge
UNITED STATES DISTRICT COURT