

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 16-cv-00026-GPG

ERIK ELLISON,

Plaintiff,

v.

RICK RAEMISCH,  
DOCTOR BUTLER, Medical Dr., Sterling Correctional Facility, and  
DR. RUDLOUSKAS, Medical Dr.,

Defendants.

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ORDER OF DISMISSAL

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Plaintiff, Erik Ellison, is a prisoner in the custody of the Colorado Department of Corrections. Mr. Ellison initiated this action by filing *pro se* a Prisoner Complaint (ECF No. 1) pursuant to 42 U.S.C. § 1983 alleging his constitutional rights have been violated. On January 12, 2016, Magistrate Judge Gordon P. Gallagher ordered Mr. Ellison to file an amended complaint that clarifies the constitutional claims he is asserting. On January 30, 2016, Magistrate Judge Gallagher entered an amended order directing Mr. Ellison to file an amended complaint. Magistrate Judge Gallagher advised Mr. Ellison that the action would be dismissed without prejudice and without further notice if he failed to file an amended complaint within thirty days.

Mr. Ellison has failed to file an amended complaint within the time allowed and he has not responded in any way to the orders directing him to file an amended complaint. 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. Ellison 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 9<sup>th</sup> day of March, 2016.

BY THE COURT:

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