

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 16-cv-00234-GPG

LEROY W. BAKER,

Plaintiff,

v.

STATE OF COLORADO DEPT. OF CORRECTIONS,
STERLING CORRECTIONAL FACILITY,
JOHN CHAPDELAINE, Warden, Sterling Correctional Facility, and
ALL OTHER JOHN AND JANE DOES RESPONSIBLE FOR THE CONTAMINATED
CONDITION OF THE WATER AT STERLING CORRECTIONAL FACILITY,

Defendants.

ORDER OF DISMISSAL

Plaintiff Leroy W. Baker is in the custody of the Colorado Department of Corrections and currently is incarcerated at the Sterling Correctional Facility, in Sterling, Colorado. Plaintiff initiated this action by filing *pro se* a Prisoner Complaint and subsequently a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915. On February 1, 2016, Magistrate Judge Gordon P. Gallagher entered an order directing Plaintiff to show cause why he should not be denied leave to proceed pursuant to § 1915, because he has initiated three or more actions that count as strikes pursuant to 28 U.S.C. § 1915(g) and he is not under imminent danger of serious physical injury.

When Plaintiff failed to respond to the Order to Show Cause, within the time allowed, this Court entered an order on March 9, 2016, that denied Plaintiff leave to

proceed pursuant to 28 U.S.C. § 1915 and directed him to pay the \$400 filing fee in full if he desired to proceed with this action. Because Plaintiff now has failed to comply with the March 9, 2016 Order within the time allowed 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 pay the filing fee in full within the time allowed. It is

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

DATED at Denver, Colorado, this 15th day of April, 2016.

BY THE COURT:

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