

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 16-cv-00283-GPG

JOHN RAINEY,

Plaintiff,

v.

CAPTAIN NORMAN MACINTOSH, and
LT. TIMOTHY WERTH,

Defendants.

ORDER OF DISMISSAL

On March 9, 2016, the Court denied Plaintiff leave to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915 in this action 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 full amount of \$400.00 within thirty days.

Plaintiff has failed within the time allowed to pay the filing and administrative fees as directed. 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 Prisoner 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. It is

FURTHER ORDERED that all pending motions are denied as moot.

DATED at Denver, Colorado, this 14th day of April, 2016.

BY THE COURT:

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