

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 16-cv-00783-GPG

MIKEAL GLENN STINE,

Plaintiff,

v.

[NO NAMED DEFENDANT] ,

Defendant.

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ORDER DISMISSING ACTION

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Plaintiff Mikeal Glenn Stine is in the custody of the United States Bureau of Prisons and currently is incarcerated at ADX Florence. On April 4, 2016, Plaintiff submitted a pleading titled, "Amended Verified Motion to Modify Filing Restrictions/Motion for Injunction and Motion for Appointment of Counsel (Request Evidentiary Hearing)," ECF No. 1. In the Motion, Plaintiff claims that he is unable to comply with the filing restrictions he is subject to under *Stine v. Lappin, et al.*, No. 07-cv-01839-WYD-KLM, ECF No. 344 (D. Colo. Sept. 1, 2009), because prison staff will not provide him a manila envelope. Plaintiff claims he needs the larger envelope to submit all the documents he is required to provide to the Court pursuant to his filing restrictions. Plaintiff also submitted a cop-out in Case No. 07-cv-01839-WYD-KLM, in which he requested both legal and manila envelopes. No. 07-cv-01839-WYD-KLM, ECF No. 406 at 4. The cop-out has a handwritten response from a counselor that states "u/t does not supply envelopes." *Id.*

To address Plaintiff's concerns, the Court directed his Warden to provide a statement for the limited purpose of addressing Plaintiff's ability to mail to the Court all documents he is required to provide pursuant to the filing restrictions under No. 07-cv-01839-WYD-KLM. The Warden also was directed to address the response by the counselor to Plaintiff's cop-out, in which Plaintiff requested both manila and legal envelopes.

In response, counsel on the Warden's behalf, stated that (1) Plaintiff has been provided with regular letter-sized white envelopes; (2) the counselor's response was in reference only to manila envelopes not being provided; and (3) Plaintiff will continue to be supplied with regular letter-sized white envelopes. Statement, ECF No. 10, at 3. Furthermore, Associate Warden Hudgins attests that "regular white envelopes are still available to Plaintiff in abundance and at no cost to him." Hudgins Decl., ECF No. 10-1 at 2.

Based on the Warden's statement, and Associate Warden's Declaration, the Court finds that Plaintiff has not been prohibited from submitting the documents he is required to provide to the Court if he desires to proceed with an action. Furthermore, Plaintiff does not assert he is denied access to regular white envelopes. Plaintiff's claim involves the manner in which he must submit the documents to this Court, which does not preclude him from complying with the filing restrictions under No. 07-cv-01839.

Therefore, since (1) Plaintiff does not assert a denial of all envelopes; (2) Associate Warden Hudgins attests Plaintiff has unlimited access to regular white envelopes; and (3) there is no requirement by the Court that Plaintiff must use a manila envelope when submitting filings to the Court, this action will be dismissed because

Plaintiff is able, but has failed, to comply with the filing restrictions under No. 07-cv-01839 in 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 action is dismissed without prejudice for the reasons stated above. It is

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

FURTHER ORDERED that all pending motions are denied as moot.

DATED at Denver, Colorado, this 28<sup>th</sup> day of April, 2016.

BY THE COURT:

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