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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

CLIFFORD EPPERSON, SR.,

Plaintiff,

v.

HENDERSON DETENTION CENTER,

Defendants.

Case No. 2:12-cv-02173-MMD-GWF

ORDER

This prisoner civil rights matter comes before the Court following upon an amended complaint not having been filed within the time period allowed.

By an order entered on March 19, 2013 (dkt. no. 34), the Court dismissed the complaint without prejudice for failure to state a claim, subject to leave to amend within thirty (30) days of entry of the order. While plaintiff thereafter sought to pursue an interlocutory appeal, neither the Court of Appeals nor this Court stayed the running of the period for filing an amended complaint during the appeal. The Court of Appeals found the appeal to be frivolous, and the appellate court ordered plaintiff to pay the filing fee as well as demonstrate why the appeal should not be summarily affirmed. The Court of Appeals thereafter dismissed the appeal after plaintiff did not respond to its order. The appellate court's order constituted the mandate of that court, which has been spread upon the records of the Court.

The time for plaintiff to mail an amended complaint to the Clerk for filing expired on April 19, 2013. No amended complaint has been received and filed in the interim.

1 Plaintiff was informed that a failure to timely mail an amended complaint to the Clerk for
2 filing that corrected the deficiencies identified in the prior order would lead to entry of a
3 final judgment of dismissal.¹

4 IT IS THEREFORE ORDERED that all pending motions are DENIED without
5 prejudice as moot and that this action shall be DISMISSED without prejudice for failure
6 to state a claim upon which relief may be granted. This dismissal shall count as a
7 “strike” for purposes of 28 U.S.C. § 1915(g).

8 The Clerk of Court shall enter final judgment accordingly, dismissing this action
9 without prejudice.

10 DATED THIS 14th day of June 2013.

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13 _____
14 MIRANDA M. DU
15 UNITED STATES DISTRICT JUDGE
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22 _____
23 ¹The inmate search feature on the detention center website reflected that plaintiff
24 — who was held on a short-duration sentence according to the papers that he filed —
25 was released from custody in April subsequent to the March 19, 2013, entry of the prior
26 order. Plaintiff, who filed a multitude of papers in staccato fashion while in custody, has
27 not filed any papers in this action since April 9, 2013. Nor has plaintiff provided the
28 Clerk with written notice of his change of address as required by Local Rule LSR 2-2. It
thus does not appear, as a practical matter, that the filing of an amended complaint or
any other action by plaintiff in this case likely will be forthcoming in the foreseeable
future.

The time period for filing an amended complaint in any event has expired.
Plaintiff no longer benefits from the prison mailbox rule for constructive filing via mailing
after his release from custody.