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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

SEAN GLENN JACOBSON,

Plaintiff,

vs.

ROBERT LEGRAND, *et al.*,

Defendants.

3:12-cv-00404-LRH-VPC

ORDER

In this *pro se* prisoner civil rights action, plaintiff has not filed an amended complaint within the extended time period that he sought.

By an order (#5) entered on February 21, 2013, the Court dismissed the complaint without prejudice for failure to state a claim, subject to leave to amend within thirty days of entry of the order.

Plaintiff thereafter moved for an extension of an additional ninety days beyond the thirty days originally allowed. Plaintiff stated in the March 15, 2013, dated motion that he was slated to be released on parole on April 21, 2013. He sought the additional time so that, *inter alia*, he could establish a new domicile, provide the Court with an updated address, and prepare an amended complaint.

The state corrections department's website confirms that plaintiff has been released. Both the initial thirty-day period for amendment and plaintiff's requested ninety-day extension have elapsed. Plaintiff has not provided the Court with an updated address, has not filed an amended complaint within the extension requested, and has not filed a motion for further extension. Given that plaintiff no longer is in custody, the prison mailbox rule does not apply; and he therefore must in fact file his papers by the applicable deadline.

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Plaintiff was informed in the screening order (#5) that a failure to timely file an amended complaint would result in entry of a final judgment of dismissal.

IT IS THEREFORE ORDERED that plaintiff's application (#1) to proceed *in forma pauperis* is DENIED without prejudice as moot and that this action shall be DISMISSED without prejudice for failure to state a claim upon which relief may be granted, which dismissal shall count as a "strike" for purposes of 28 U.S.C. § 1915(g).

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

DATED this 19th day of July, 2013.



LARRY R. HICKS
UNITED STATES DISTRICT JUDGE