UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

KEITH CLAYTON BROOKS, JR.,

Plaintiff - Appellant,

v.

CELIA SCHWARTZ, individually and in
her official capacity as CDOC Legal
Assistant; SHIELDS, individually and in
his official capacity as CDOC Hearing
Officer; JASON LENGERICH,
individually and in his official capacity s
CDOC Warden; AMY MORRISON,
individually and in her official capacity as
CDOC Major; JENNIFER HANSEN,
individually and in her official capacity as
CDOC Major; SIMON DENWALT,
individually and in his official capacity as
CDOC Case Manager; JOHN NITSCH,
individually and in his official capacity as
CDOC Captain; ALAN HYSJULIEN,
individually and in his official capacity as
CDOC Disciplinary Officer; ANTHONY
DECESARO, individually and in his
official capacity as Grievance Officer;
COLORADO DEPARTMENT OF
CORRECTIONS,

Defendants - Appellees.

No. 19-1368
(D.C. No. 1:19-CV-02088-GPG)
(D. Colo.)

ORDER

APPENDIX A

This appeal is dismissed for lack of prosecution pursuant to 10th Cir. R. 3.3(B) and 10th Cir. R. 42.1. A copy of this order shall stand as and for the mandate of this court.

Entered for the Court

CHRISTOPHER M. WOLPERT, Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 19-cv-02088-GPG

KEITH CLAYTON BROOKS,

Plaintiff,

v.

CELIA SCHWARTZ, individually and in her official capacity as CDOC Legal Assistant,
SHIELDS, individually and in his official capacity as CDOC Hearing Officer,
JASON LENGERICH, individually and in his official capacity as CDOC Warden,
AMY MORRISON, individually and in her official capacity as CDOC Major,
JENNIFER HANSEN, individually and in her official capacity as CDOC Major,
SIMON DENWALT, individually and in his official capacity as CDOC Case Manager,
JOHN NITSCH, individually and in his official capacity as CDOC Captain,
ALAN HYSJULIEN, individually and in his official capacity as CDOC Disciplinary Officer,
ANTHONY DECESARO, individually and in his official capacity as Grievance Officer,
      and
COLORADO DEPARTMENT OF CORRECTIONS,

Defendants.

ORDER OF DISMISSAL

On August 23, 2019, 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) if he wishes to pursue his claims in this action. On January 10, 2020, Plaintiff's appeal from the order denying him leave to proceed *in forma pauperis* was dismissed. In a Minute Order (ECF No. 20) entered on January 13, 2020, Plaintiff was directed to pay the full amount of $400.00 on

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APPENDIX B

or before February 3, 2020. Plaintiff was warned that the action would be dismissed without further notice if he failed to pay the full amount of $400.00 within the time allowed.

Plaintiff has failed within the time allowed to pay the filing and administrative fees as directed. Therefore, the action will be dismissed. 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). In addition, because Plaintiff is subject to the filing restriction in 28 U.S.C. § 1915(g), he must pay the full $505 appellate filing fee if he files a notice of appeal. Accordingly, it is

ORDERED that the Prisoner Complaint (ECF No. 1) 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.

DATED at Denver, Colorado, this __10th__ day of __February__, 2020.

BY THE COURT:

__s/Lewis T. Babcock_____
LEWIS T. BABCOCK, Senior Judge
United States District Court

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