

FILED

**United States Court of Appeals
Tenth Circuit**

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

August 13, 2021

**Christopher M. Wolpert
Clerk of Court**

JABARI J. JOHNSON,

Plaintiff - Appellant,

v.

SENIOR JUDGE LEWIS T. BABCOCK,

Defendant - Appellee.

No. 21-1204
(D.C. No. 1:21-CV-01114-CMA)
(D. Colo.)

ORDER

On July 9, 2021, this court held that the Prison Litigation Reform Act, 28 U.S.C. § 1915(g), applies to this appeal and informed Appellant Jabari J. Johnson that he must pay the full \$505.00 appellate filing fee to the district court by July 30, 2021, or this court would dismiss his appeal for failure to pay the required fees.

This matter is now before the court because Mr. Johnson has not paid the full appellate filing fee to the district court. Accordingly, the court dismisses Mr. Johnson's appeal for failure to pay the required fees. *See* 10th Cir. R. 3.3(B) and 42.1.

A copy of this order shall stand as and for the mandate of the court.

Entered for the Court
CHRISTOPHER M. WOLPERT, Clerk



By: Sunil N. Rao
Counsel to the Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 21-cv-01114-GPG

JABARI J. JOHNSON,

Plaintiff,

v.

SENIOR JUDGE LEWIS T. BABCOCK,

Defendant.

ORDER DISMISSING CASE

Plaintiff Jabari J. Johnson is in the custody of the Colorado Department of Corrections and currently is incarcerated at the Colorado State Penitentiary in Cañon City, Colorado. Plaintiff initiated this action by filing a Prisoner Complaint, ECF No. 1, and a pleading titled, "Motion in Compliance of Court Order to Proceed for Required Affidavit Below," ECF No. 2.

This Court has imposed filing restrictions against Plaintiff based on his abusive litigation in this Court. The filing restrictions are as follows:

- (1) To initiate an action Plaintiff/Applicant must properly complete a Court-approved prisoner complaint/habeas corpus application form by completing all sections of the form pursuant to the form instructions, which is not limited to but includes writing legibly, listing only one defendant per line in the caption of the form, and providing all named defendants in the information required in Section E. of the complaint form for each separate case he has filed in this Court;
- 2) To initiate an action Plaintiff/Applicant must at the same time he submits a prisoner complaint/habeas corpus application either pay the

required filing fee, or in the alternative submit a request to proceed pursuant to 28 U.S.C. § 1915 on a form that is approved by this Court and applicable to the action being filed, and attach a certified inmate account statement and authorization for disbursement as required; and

3) To initiate an action Plaintiff must provide a notarized affidavit that certifies the lawsuit is not interposed for any improper purpose to harass or cause unnecessary delay, and that the filing complies with this injunction, Fed. R. Civ. P. 8, all other provisions of the Federal Rules of Civil [Procedure], and the Local Rules of Practice of the United States District Court for the District of Colorado.

Johnson v. Hawkins, et al., No. 19-cv-03730-LTB, ECF No. 3 at 10-11 (D. Colo. Mar. 4, 2020).

Plaintiff has failed to comply with his filing restrictions. He has not submitted a 28 U.S.C. § 1915 Motion and Affidavit and attach a certified account statement to the Motion for the six months immediately preceding the filing of this action, or in the alternative pay the filing fee in full. He also has failed to properly complete a Prisoner Complaint form. Plaintiff, however, contends that the law librarian has denied him a certified six-month account statement, a list of the cases he has filed, and notarization of his compliance statement. See ECF No.2. Nonetheless, the Complaint and action will be dismissed without prejudice because Plaintiff has failed to assert claims that comply with Rule 8 of the Federal Rules of Civil Procedure. Accordingly, it is

ORDERED that the Clerk of the Court is directed to terminate this case and close the action because Plaintiff has failed to comply with the sanction order entered in *Johnson v. Hawkins, et al.*, No. 19-cv-03730-LTB, ECF No. 10 (D. Colo. Mar. 4, 2020). It is


FURTHER ORDERED that pursuant to 28 U.S.C. § 1915(a)(3) any appeal from this Order is not taken in good faith, and, therefore, *in forma pauperis* status is 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. It is

FURTHER ORDERED that all pending motions are denied as moot.

DATED: April 26, 2021

BY THE COURT:



CHRISTINE M. ARGUELLO
United States District Judge