

FILED

United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

October 26, 2023

Christopher M. Wolpert
Clerk of Court

JABARI J. JOHNSON,

Plaintiff - Appellant,

v.

JILL BRADY; KRUSZKA; BILL ELDER;
MOTT; CHRISTOPHER GREGORY;
CATHERINE SHEA; SALLY
COLLTON; MICHAEL ALLEN;
DARREN CANTOR,

Defendants - Appellees.

No. 23-1273
(D.C. No. 1:23-CV-02118-LTB)
(D. Colo.)

ORDER

This appeal is dismissed for lack of prosecution pursuant to Tenth Circuit Rule
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

Appendix
A

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 23-cv-02118-SBP

JABARI J. JOHNSON,

Plaintiff,

v.

JILL BRADY, *et al.*,

Defendants.

ORDER DISMISSING CASE

Plaintiff Jabari J. Johnson is a prisoner in the custody of the Colorado Department of Corrections at the Colorado State Penitentiary in Cañon City, Colorado. Plaintiff initiated this action by filing *pro se* part of a Prisoner Complaint. (ECF No. 1).

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. 10 at 2 (D. Colo. Mar. 4, 2020).

Plaintiff has failed to comply with these filing restrictions. He has not submitted a § 1915 motion and affidavit with an attached certified account statement for the six months immediately preceding the filing of this action, or in the alternative paid the filing fee in full. He has neither completed all sections of the form Prisoner Complaint, nor submitted a notarized affidavit as required.

Accordingly, it is

ORDERED that this action be DISMISSED WITHOUT PREJUDICE 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 WITHOUT PREJUDICE 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.

DATED at Denver, Colorado, this 23rd day of August, 2023.

BY THE COURT:

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

Appeal Documents

1:23-cv-02118-LTB Johnson (PS)

v. Brady et al CASE CLOSED on

08/23/2023

APPEAL, CDOC

Fremont, JD4, PCR, PS7, TERMED

U.S. District Court - District of Colorado

District of Colorado

Notice of Electronic Filing

The following transaction was entered on 10/26/2023 at 2:44 PM MDT and filed on 10/26/2023

Case Name: Johnson (PS) v. Brady et al

Case Number: 1:23-cv- 2118-LTB

Filer:

WARNING: CASE CLOSED on 08/23/2023

Document Number: 2

Docket Text:

MANDATE of USCA as to [8] USCA Order, [5] Notice of Appeal filed by Jabari J. Johnson: (USCA Case No. 23-1273). Pursuant to Federal Rule of Appellate Procedure 41, the Tenth Circuit's mandate issued today, and the court's judgment takes effect. With the issuance of this letter, jurisdiction is transferred back to the lower court. (pklin,)

1:23-cv-02118-LTB Notice has been electronically mailed to:

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Appendix
B

IN THE UNITED STATES DISTRICT
COURT FOR THE DISTRICT OF
COLORADO

Civil Action No. 23-1273
(To be supplied by the court)

Mari L Johnson, Plaintiff,

v. Brady

_____, Defendant(s).

Motion Correcting Writ of Certiorari Pursuant to U.S. Supreme Court
orders

Comes Now Plaintiff filed his petition for Writ of Certiorari pursuant to
the court's 2/23/24 Order of Johnson v. Brady.

Plaintiff placed the questions immediately following the cover.

The lower court opinions were also added as requested per Rule 14.1
and a copy was served on the opposing party

