

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

Civil Action No. 11-cv-00020-BNB

MAR 23 2011

NORMAN D. GUTHRIE,

GREGORY C. LANGHAM
CLERK

Plaintiff,

v.

UNITED STATES OF AMERICA,
HARLEY LAPPIN, Director,
CHARLES DANIELS, Warden, and
JOHN DOE, Mailroom Supervisor,

Defendants.

ORDER OF DISMISSAL

Plaintiff, Norman D. Guthrie, is in the custody of the Federal Bureau of Prisons. At the time of filing, he was incarcerated at the United States Penitentiary in Lompoc, California. Mr. Guthrie has filed *pro se* an amended Prisoner Complaint asserting jurisdiction under the Federal Tort Claims Act, 28 U.S.C. §§ 1346, and 2671 - 2680. Mr. Guthrie has also filed an "Application to Proceed in Forma Pauperis."

In an Order dated January 11, 2011, Magistrate Judge Boyd N. Boland directed Mr. Guthrie to cure a deficiency in his "Application to Proceed in Forma Pauperis." Specifically, Mr. Guthrie was ordered to submit his 28 U.S.C. § 1915 Motion and Affidavit on the court-approved form within thirty (30) days of the January 11 Order. Mr. Guthrie was warned that his failure to cure the deficiency in thirty days would result in dismissal of the action without prejudice and without further notice.

On February 8, 2011, Mr. Guthrie filed a Prisoner's Motion and Affidavit for Leave

to Proceed Pursuant to 28 U.S.C. § 1915 on the court-approved form. However, the inmate statement of account activity attached to the § 1915 Motion and Affidavit was not certified by an appropriate official of Plaintiff's penal institution, as required by 28 U.S.C. § 1915(a)(2). Accordingly, in a February 10, 2011 Minute Order, Magistrate Judge Boland granted Plaintiff thirty days to submit to the Court a copy of his trust fund account statement for the six-month period immediately preceding the filing of the complaint that was certified by an appropriate prison staff member.

Mr. Guthrie filed a notice of change of address with the Court on February 14, 2011. In a Minute Order issued February 15, 2011, Magistrate Judge Boland directed the clerk of the court to remail to Plaintiff at his new address a copy of the February 10 Minute Order. Plaintiff was granted thirty days from the February 15 Minute Order to submit to the Court a certified copy of his prison trust fund account statement. Mr. Guthrie was warned that failure to comply with the February 15 Minute Order would result in dismissal of this action without prejudice and without further notice.

Mr. Guthrie has not filed an account statement certified by an appropriate prison or other institutional staff member. Moreover, Mr. Guthrie has not filed anything in response to the February 15 Minute Order indicating that he cannot comply or requesting an extension of time to do so. Accordingly, it is

ORDERED that the action is dismissed without prejudice pursuant to Rule 41(b) of the Federal Rules of Civil Procedure for the failure of Plaintiff, Norman D. Guthrie, to cure the deficiency in his § 1915 Motion and Affidavit, as directed in the Minute Order of February 15, 2011.

DATED at Denver, Colorado, this 23rd day of March, 2011.

BY THE COURT:

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

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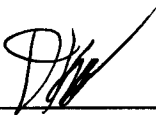
CERTIFICATE OF MAILING

Civil Action No. 11-cv-00020-BNB

Norman D Guthrie
Reg. No. 76355-012
Rubidoux Re-Entry CCC
3236 Rubidoux Blvd
Rubidoux, CA 92509

I hereby certify that I have mailed a copy of the **ORDER and JUDGMENT** to the above-named individuals on March 23, 2011.

GREGORY C. LANGHAM, CLERK

By:  _____
Deputy Clerk