

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

SEP 15 2011

GREGORY C. LANGHAM
CLERK

Civil Action No. 11-cv-02016-BNB

JAMES PRESTON SMITH,

Applicant,

v.

WARDEN JACK DANIALS [sic], U.S.P. Florence, Colorado, and
THE UNITED STATES,

Respondents.

ORDER OF DISMISSAL

Applicant, James Preston Smith, is in the custody of the federal Bureau of Prisons. He is incarcerated currently at the United States Penitentiary in Florence, Colorado. Mr. Smith initiated this action by filing a document titled "28 U.S.C. § 2241 Habeas Pursuant to 28 U.S.C. § 1333 Common Law Tradition" on August 3, 2011.

On August 9, 2011, Magistrate Judge Boyd N. Boland directed the Clerk of the Court to commence a civil action, and directed Mr. Smith to cure certain deficiencies. Specifically, Magistrate Judge Boland ordered Mr. Smith to submit his § 2241 Application on the court-approved form. Mr. Smith was also directed to submit a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 in a Habeas Corpus Action, along with a certificate showing the current balance in his prison trust fund account. Mr. Smith was advised that he could pay the \$5.00 filing fee instead of filing a § 1915 Motion. The August 9 Order warned Mr. Smith that if he failed to cure the designated deficiencies within the time allowed, the action would be dismissed

without further notice.

Mr. Smith has now failed to submit his § 2241 Application and § 1915 Motion and Affidavit on the court-approved forms. Alternatively, he has not paid the \$5.00 filing fee. Therefore, Mr. Smith has failed to cure the designated deficiencies within the time allowed. Accordingly, it is

ORDERED that the action be dismissed without prejudice pursuant to Rule 41(b) of the Federal Rules of Civil Procedure for the failure of Applicant, James Preston Smith, to comply with the order to cure dated August 9, 2011.

DATED at Denver, Colorado, this 15th day of September, 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-02016-BNB

James Preston Smith
Reg. No. 06505-084
USP Florence - High
PO Box 7000
Florence, CO 81226

I hereby certify that I have mailed a copy of the **ORDER and JUDGMENT** to the above-named individuals on September 15, 2011.

GREGORY C. LANGHAM, CLERK

By: _____



Deputy Clerk