

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 11-cv-02745-BNB

WILLIAM L. GLADNEY,

Applicant,

v.

PEOPLE OF COLORADO, and
THE ATTORNEY GENERAL OF THE STATE OF COLORADO,

Respondents.

ORDER OF DISMISSAL

Applicant, William L. Gladney, is in the custody of the United States Bureau of Prisons and is currently incarcerated at the United States Penitentiary in Atwater, California. Mr. Gladney initiated this action by filing a “Memorandum of Points and Authorities in Support to Motion Under 28 U.S.C. § 2254.”

In an order entered on October 28, 2011, Magistrate Judge Boyd N. Boland directed Mr. Gladney to cure certain deficiencies if he wished to pursue his claims. Specifically, Magistrate Judge Boland ordered Mr. Gladney to submit an Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254. Mr. Gladney was also directed to submit a Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 and a current, certified copy of his prisoner’s trust fund statement. Mr. Gladney was warned that the action would be dismissed without further notice if he failed to cure the deficiencies within thirty days.

On November 21, 2011, Mr. Gladney filed an Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254 in addition to a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915. The § 1915 Motion and Affidavit form, however, is deficient because the account statement Mr. Gladney attached is not certified by either the warden or an appropriate officer at the facility where he is incarcerated. Mr. Gladney did not submit a certified copy of his inmate trust fund account statement in support of the 28 U.S.C. § 1915 Motion, as he is required to do pursuant to § 1915(a)(2), and as is specified on Page Two of the § 1915 Motion and Affidavit form. Therefore, the action will be dismissed without prejudice for failure to cure all noted deficiencies. 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 Applicant, William L. Gladney, to comply with the order to cure dated October 28, 2011. It is

FURTHER ORDERED that all pending motions are denied as moot. It is

FURTHER ORDERED that no certificate of appealability will issue because Applicant has not made a substantial showing of the denial of a constitutional right.

DATED at Denver, Colorado, this 8th day of December, 2011.

BY THE COURT:

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