

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 12-cv-00552-BNB

KENNETH PAUL CAMPBELL,

Plaintiff,

v.

KIM E. IKELER,

Defendant.

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ORDER OF DISMISSAL

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Plaintiff, Kenneth Paul Campbell, is a resident of Monument, Colorado. He initiated this action by filing a *pro se* Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241 with the Court on March 1, 2012. He paid a \$5.00 filing fee.

In an order filed on March 5, 2012, Magistrate Judge Boyd N. Boland ordered Mr. Campbell to cure certain enumerated deficiencies in this case within thirty days. Specifically, Mr. Campbell was informed that his claims were not properly asserted in a habeas corpus action. Therefore, Mr. Campbell was directed to submit a Complaint on the Court-approved form. Mr. Campbell was also directed to file a motion and affidavit for leave to proceed pursuant to 28 U.S.C. § 1915 on the Court-approved form. He was informed that the § 1915 motion and affidavit was only necessary if the \$350.00 filing fee was not paid in advance. Because Mr. Campbell had already paid \$5.00, he was directed either to pay the remaining balance of \$345.00 or file a properly notarized motion and affidavit for leave to proceed pursuant to 28 U.S.C. § 1915. The March 5

order warned Mr. Campbell that if he failed to cure the designated deficiencies within the time allowed, the action would be dismissed without further notice.

On March 6, 2012, Mr. Campbell filed a subpoena duces tecum. However, Mr. Campbell has not communicated with the Court since March 6, 2012. He has now failed to file a Complaint and a Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 as directed by the March 5 Order. Therefore, Mr. Campbell has failed within the time allowed to cure the designated deficiencies.

Finally, the Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith and therefore *in forma pauperis* status will be 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 also pay the full \$455 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.

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, Kenneth Paul Campbell, to comply with the order to cure dated March 5, 2012. It is

FURTHER ORDERED that leave to proceed *in forma pauperis* on appeal is denied.

DATED at Denver, Colorado, this 10<sup>th</sup> day of April, 2012.

BY THE COURT:

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