

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 12-cv-00714-BNB

OSMAN N. OZSUSAMLAR

Plaintiff,

v.

[NO DEFENDANTS NAMED],

Defendant(s).

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ORDER OF DISMISSAL

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Plaintiff, Osman N. Ozsusamlar, a federal prisoner currently incarcerated at the United States Penitentiary in Atwater, California, initiated an action in the United States District Court for the Southern District of New York. After determining that Plaintiff's allegations against prison officials at USP-Florence, Colorado, were more properly addressed by the United States District Court for the District of Colorado, the District Court for the Southern District of New York entered a Transfer Order that transferred the civil action to this Court.

Mr. Ozsusamlar has submitted a letter complaining about his conditions of confinement at USP-Florence, Colorado, along with a second letter with attachments to support his claims. On March 22, 2012, Magistrate Judge Boyd N. Boland issued an order directing the Plaintiff to cure certain deficiencies in this action within thirty (30) days. The March 22 Order instructed Plaintiff to submit a Prisoner Complaint, a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915, and a certified copy of his prisoner's trust fund account statement for the six-month period

preceding his filing. Magistrate Judge Boland advised Mr. Ozsusamlar that he could elect to pay the \$350.00 filing fee instead of filing an *in forma pauperis* motion. The March 22 Order further advised Mr. Ozsusamlar that the action would be dismissed without prejudice and without further notice if he failed to cure the designated deficiencies by the court-ordered deadline.

In a Letter dated April 12, 2012, Mr. Ozsusamlar requested an extension of time to comply with the Court's March 22 Order and advised the Court that he had been transferred to USP-Atwater, California. See Doc. No. 4. He further asked the Court to mail to him copies of the court-approved Prisoner Complaint form and Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915. *Id.* In a Minute Order entered on April 23, 2012, Magistrate Judge Boland granted Plaintiff until May 23, 2012, to comply with the March 22 Order. See Doc. No. 5. Magistrate Judge Boland further directed the Clerk of the Court to mail the requested forms to Plaintiff. *Id.*

Mr. Ozsusamlar has not submitted a Complaint and § 1915 Motion and Affidavit on the court-approved forms, and he has failed to pay the filing fee. Accordingly, Plaintiff has failed to comply with the Order to Cure Deficiencies dated March 22, 2012.

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 this action is dismissed without prejudice pursuant to Rule 41(b) of the Federal Rules of Civil Procedure for the failure of Plaintiff, Osman N. Ozsusamlar, to comply with the Court's Order dated March 22, 2012. It is

FURTHER ORDERED that no certificate of appealability will issue because jurists of reason would not debate the correctness of this procedural ruling and Plaintiff has not made a substantial showing of the denial of a constitutional right. It is

FURTHER ORDERED that leave to proceed *in forma pauperis* on appeal is denied. Mr. Ozsusamlar may file a motion in the United States Court of Appeals for the Tenth Circuit.

DATED at Denver, Colorado, this 30<sup>th</sup> day of May, 2012.

BY THE COURT:

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