

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 12-cv-01021-BNB

KURT A. ZELLNER,

Plaintiff,

v.

DENVER COUNTY SHERIFF,
DENVER COUNTY/CITY JAIL, and
DENVER COUNTY,

Defendants.

ORDER OF DISMISSAL

On April 16, 2012, Plaintiff Kurt A. Zellner, acting *pro se*, submitted to the Court a Prisoner Complaint and a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915. At the time Mr. Zellner initiated this action, he asserted that he was housed at the Sterling Correctional Facility in Sterling, Colorado.

On April 17, 2012, Magistrate Judge Boyd N. Boland entered an order instructing Mr. Zellner to submit an inmate account statement that is certified by an official at the institution where he is held and that is for the six-month period immediately preceding the filing of this action. Mr. Zellner was warned that the action would be dismissed without further notice if he failed to cure the deficiencies within thirty days.

The April 17 Order to Cure was returned to the Court on April 23, 2012. The envelope in which the Order was sent to Mr. Zellner was marked as "Return to Sender Refused Unable to Forward." Rule 10.1M. of the Local Rules of Practice of the United

States District Court for the District of Colorado-Civil, states that a party must file a notice of a new address within five days of any change of address. Nonetheless, Mr. Zellner now has failed to communicate with the Court and has failed to cure the deficiencies within the time allowed.

The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this order is not taken in good faith, and, therefore, *in forma pauperis* status is denied for the purpose of appeal. See *Coppedge v. United States*, 369 U.S. 438 (1962). If Mr. Zellner 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 Tenth Circuit within thirty days in accordance with Fed. R. App. P. 24. Accordingly, it is

ORDERED that the Complaint and action are dismissed without prejudice pursuant to Fed. R. Civ. P. 41(b) for failure to cure the deficiencies and for failure to prosecute. It is

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

DATED at Denver, Colorado, this 29th day of May, 2012.

BY THE COURT:

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