

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 12-cv-02324-BNB

KHALIFA IMAM MUHAMMAD MUSTAFA ABDULLAH,

Plaintiff,

v.

BERBIL, Warden,
CHRIS, Captain,
RENGAL, Unit Man.,
BREAM, C.O., and
BLITNER, C.O.,

Defendants.

ORDER OF DISMISSAL

Plaintiff, Khalifa Imam Muhammad Mustafa Abdullah, is in the custody of the United States Bureau of Prisons and currently is incarcerated at ADX in Florence, Colorado. Plaintiff, acting *pro se*, initiated this action by filing a pleading titled "Heabeas [sic] Corpus U.S.C. 2255 U.S.C. 2241." In an order entered on September 5, 2012, Magistrate Judge Boyd N. Boland construed the action as properly filed pursuant to *Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics*, 403 U.S. 388 (1971), and instructed Plaintiff to file his claims on a Court-approved form used in filing prisoner complaints. Magistrate Judge Boland also instructed Plaintiff either to pay the \$350.00 filing fee or to submit a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 form.

Magistrate Judge Boland warned Plaintiff that the action would be dismissed without further notice if he failed to cure the deficiencies within thirty days. Although Plaintiff has filed a Motion to Proceed and a Motion for Release, the pleadings are

nonresponsive to the Order of September 5, 2012 Order. Plaintiff now has failed to comply with the September 5, 2012 Order within the time allowed, and the action will be dismissed.

The Court also 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 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 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 Complaint and action are dismissed without prejudice pursuant to Fed. R. Civ. P. 41(b) for failure to cure all deficiencies and for failure to prosecute. It is

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

FURTHER ORDERED that all pending motions are denied as moot.

DATED at Denver, Colorado, this 15th day of October, 2012.

BY THE COURT:

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