

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 12-cv-02342-BNB

JESUS J. JABALERA, a.k.a. JESUS JOSE JABALERA-ENRIQUEZ,

Plaintiff,

v.

SIX UNKNOWN NAMES AGENTS, and
BARAK OBAMA, Mr. President of the United States,

Defendants.

ORDER OF DISMISSAL

On August 31, 2012, Plaintiff Jesus J. Jabalera, aka Jesus Jose Jabalera-Enriquez, acting *pro se*, submitted to the Court a Prisoner Complaint. At the time he initiated this action, Plaintiff was incarcerated at the Big Spring-CC Airpark United Correctional Center in Big Spring, Texas.

On September 5, 2012, Magistrate Judge Boyd N. Boland entered an order instructing Plaintiff to file his claims on a current Court-approved form and to submit a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 and a certified trust fund account statement for the six-month period immediately preceding the filing of this action. Plaintiff was warned that the action would be dismissed without further notice if he failed to cure the deficiencies within thirty days.

The September 5, 2012 Order to Cure was returned to the Court on September 14, 2012. The envelope, in which the Order was sent to Plaintiff was marked "Return to Sender Refused Unable to Forward" and "RTS Released." 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. Plaintiff now has failed to communicate with the Court, and as a result he has failed to cure the deficiencies within the time allowed. The Court, therefore, will dismiss the action.

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 is 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 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 15th day of October, 2012.

BY THE COURT:

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

