

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 12-cv-03121-BNB

CRAIG ROBLEDO-VALDEZ,

Applicant,

v.

ANGEL MEDINA, et al., and  
TOM CLEMENTS,

Respondents.

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ORDER OF DISMISSAL

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Applicant, Craig Robledo-Valdez, initiated this action by filing *pro se* an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 (ECF No. 1). On December 3, 2012, Mr. Robledo-Valdez filed a motion (ECF No. 5) seeking leave to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915 in this action. On December 5, 2012, the Court entered an order denying the motion seeking leave to proceed *in forma pauperis* and directing Mr. Robledo-Valdez to pay the \$5.00 filing fee for this habeas corpus action within thirty days.

On December 7, 2012, Mr. Robledo-Valdez submitted to the Court a letter dated December 3, 2012, that apparently crossed in the mail with the Court's order denying him leave to proceed *in forma pauperis* and directing him to pay the \$5.00 filing fee. (See ECF No. 8.) Attached to the letter is an account statement that indicates Mr. Robledo-Valdez had a balance of \$-5.92 in his inmate account as of November 30, 2012. (See *id.* at 2.)

Mr. Robledo-Valdez did not pay the \$5.00 filing fee within thirty days after the Court's December 5 order directing him to pay the filing fee. However, based on the account statement filed on December 7, it was not clear whether Mr. Robledo-Valdez had sufficient funds to pay the filing fee after being ordered to do so. Therefore, on January 11, 2013, Magistrate Judge Boyd N. Boland entered an order in this action granting Mr. Robledo-Valdez an extension of time of twenty-one days either to pay the filing fee or to show cause why the action should not be dismissed for failure to pay the filing fee. Mr. Robledo-Valdez was advised that, in order to show good cause, he must submit a certified copy of his inmate trust fund account statement for the month of December 2012 that demonstrates he was unable to pay the \$5.00 filing fee within the time allowed. On January 25, 2013, Mr. Robledo-Valdez filed a letter to the Court (ECF No. 12) in which he states that his mother told him she had paid the filing fee for this action in December 2012. Mr. Robledo-Valdez also states in the letter that he will be released from prison soon and "will make sure to pay those 5 dollars." (ECF No. 12 at 1.)

Mr. Robledo-Valdez has failed within the time allowed either to pay the filing fee or to show cause why he was unable to pay the filing fee. Therefore, the action will be dismissed without prejudice for failure to pay the filing fee.

Furthermore, 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 Applicant files a notice of appeal he also 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 habeas corpus application (ECF No. 1) is denied and the action is dismissed without prejudice pursuant to Rule 41(b) of the Federal Rules of Civil Procedure because Mr. Robledo-Valdez failed to comply with a court order directing him to pay the filing fee. It is

FURTHER ORDERED that leave to proceed *in forma pauperis* on appeal is denied without prejudice to the filing of a motion seeking leave to proceed *in forma pauperis* on appeal in the United States Court of Appeals for the Tenth Circuit.

DATED at Denver, Colorado, this 7<sup>th</sup> day of February, 2013.

BY THE COURT:

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