

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 13-cv-00028-BNB

JUAN VIANEZ,

Plaintiff,

v.

D, BARKEBILE, Warden,

Defendant.

ORDER OF DISMISSAL

Plaintiff, Juan Vianez, is in the custody of the United States Bureau of Prisons and currently is incarcerated at ADX in Florence, Colorado. Mr. Vianez, acting *pro se*, initiated this action by filing a Prisoner Complaint, a pleading titled "Complaint," a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915, a Declaration in Support of Motion to Proceed In Forma Pauperis, a Preliminary Injunction, a Plaintiff's Request for Production of Documents, and a pleading titled, "Evidence."

In an order entered on January 10, 2013, Magistrate Judge Boyd N. Boland directed the Clerk of the Court to commence a civil action and instructed Mr. Vianez to cure certain deficiencies in his Complaint. Specifically, Magistrate Judge Boland directed Mr. Vianez to submit all of his claims on one Court-approved form used in filing prisoner complaints and to provide the addresses for all named defendants in "Section

A.” of the complaint form. Mr. Vianez also was directed to submit a request to proceed pursuant to 28 U.S.C. § 1915 on a current Court-approved form and provide a certified copy of his trust fund account statement for the six months immediately preceding the filing of this action.

Magistrate Judge Boland warned Mr. Vianez that the action would be dismissed without further notice if he failed to cure the deficiencies within thirty days. Rather than cure the deficiencies, Mr. Vianez submitted four pleadings that are unresponsive to the January 10, 2013 Order to Cure.

Mr. Vianez has failed to submit all of his claims on a Prisoner Complaint form, a request to proceed pursuant to § 1915 on a current Court-approved form, and a certified account statement for the six months immediately preceding the filing of this action. Therefore, the action will be dismissed without prejudice for failure 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. Vianez files a notice of appeal he must also pay the full \$455.00 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. It is

FURTHER ORDERED that all pending motions are denied as moot.

DATED at Denver, Colorado, this 22nd day of February, 2013.

BY THE COURT:

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