

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 13-cv-00155-BNB

KYLE CHANCE BROOKS,

Plaintiff,

v.

NANCY SALOMONE,

Defendant.

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ORDER OF DISMISSAL

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Plaintiff, Kyle Chance Brooks, currently is incarcerated at the county jail in Boulder, Colorado. He initiated the instant action by submitting *pro se* a Complaint (ECF No. 1). The Court reviewed the Complaint and determined it was deficient. Therefore, on February 4, 2013, Magistrate Judge Boyd N. Boland entered an order (ECF No. 3) directing Mr. Brooks to cure certain enumerated deficiencies in the case within thirty days if he wished to pursue his claims.

The February 4 order pointed out that Mr. Brooks failed to submit either the \$350.00 filing fee or a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 on the proper, Court-approved form together with a certified copy of his trust fund account statement for the six-month period immediately preceding this filing obtained from the appropriate prison official. The February 4 order also pointed out that Mr. Brooks failed to submit his Complaint on the proper Prisoner Complaint form. The order directed him to obtain, with the assistance of his case manager or the

facility's legal assistant, the Court-approved forms for filing a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 and a Prisoner Complaint. The February 4 order warned Mr. Brooks that, if he failed to cure the designated deficiencies within thirty days, the action would be dismissed without prejudice and without further notice.

Mr. Brooks has failed to cure the designated deficiencies within the time allowed, or otherwise to communicate with the Court in any way. Therefore, the Complaint and the action will be dismissed without prejudice for Mr. Brooks' failure to cure the designated deficiencies as directed within the time allowed, and for his failure to prosecute.

Finally, the Court certifies pursuant to § 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 Mr. Brooks files a notice of appeal he also must pay the full \$455.00 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 action is dismissed without prejudice pursuant to Rule 41(b) of the Federal Rules of Civil Procedure for the failure of Plaintiff, Kyle Chance Brooks, within the time allowed, to cure the deficiencies designated in the order to cure of February 4, 2013, and for his failure to prosecute. It is

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

FURTHER ORDERED that any pending motions are denied as moot.

DATED at Denver, Colorado, this 18<sup>th</sup> day of March, 2013.

BY THE COURT:

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