

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 13-cv-00388-BNB

ADRIAN VALDEZ,

Plaintiff,

v.

CHRISTIAN STOB, Denver Health Medical Center,
CAT METZGER, Denver Health Medical Center, and
DENVER SHERIFF'S DEPARTMENT MEDICAL DEPARTMENT, et al.,

Defendants.

ORDER OF DISMISSAL

Plaintiff, Adrian Valdez, initiated this action by filing *pro se* a "Complaint Pursuant to 42 U.S.C. 1983" (ECF No. 1) and an uncertified copy of his inmate trust fund account statement for the period from January 11, 2013, through February 11, 2013. On February 14, 2013, Magistrate Judge Boyd N. Boland entered an order directing Mr. Valdez to cure certain deficiencies if he wished to pursue his claims in this action. Specifically, Magistrate Judge Boland ordered Mr. Valdez to file on the proper form a Prisoner Complaint and either pay the \$350.00 filing fee or file a properly supported Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915. Mr. Valdez was warned that the action would be dismissed without further notice if he failed to cure the deficiencies within thirty days.

On March 8, 2013, Mr. Valdez filed a notice of change of address that indicates he had been released from prison. On March 11, 2013, Magistrate Judge Boland

entered a second order directing Mr. Valdez to cure the deficiencies in this action. However, because Mr. Valdez no longer was a prisoner, Magistrate Judge Boland directed him to use the appropriate non-prisoner forms to cure the deficiencies. Mr. Valdez again was warned that the action would be dismissed without further notice if he failed to cure the deficiencies within thirty days.

On April 12, 2013, Mr. Valdez filed a letter to the Court stating he is incarcerated in the Denver County Jail and inquiring about the status of his claims. On April 15, 2013, Magistrate Judge Boland entered a third order directing Mr. Valdez to cure the deficiencies in this action. Because he again is a prisoner, Magistrate Judge Boland directed him to use the appropriate prisoner forms to cure the deficiencies. Mr. Valdez again was warned that the action would be dismissed without further notice if he failed to cure the deficiencies within thirty days.

On April 22, 2013, the copy of Magistrate Judge Boland's April 15 order that was mailed to Mr. Valdez at the Denver County Jail was returned to the Court undelivered. The returned envelope (ECF No. 10) bears a stamp indicating that the mail could not be delivered without an inmate number. Mr. Valdez did not provide a Denver County Jail inmate number when he advised the Court on April 12, 2013, that he was incarcerated at the Denver County Jail.

Pursuant to Rule 10.1M. of the Local Rules of Practice of the United States District Court for the District of Colorado-Civil, a party must file a notice of new address within five days of any change of address. By failing to provide an inmate number, Mr. Valdez has failed to comply with the Court's local rules and, as a result, he has failed within the time allowed to cure the deficiencies. Therefore, the action will be dismissed.

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 Plaintiff 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 “Complaint Pursuant to 42 U.S.C. 1983” (ECF No. 1) and the action are dismissed without prejudice pursuant to Rule 41(b) of the Federal Rules of Civil Procedure because Mr. Valdez failed to cure the deficiencies as directed. 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 22nd day of May, 2013.

BY THE COURT:

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