

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 13-cv-00442-BNB

THOMAS M. COLE,

Plaintiff,

v.

FEDERAL BUREAU OF PRISONS, et al.,

Defendants.

ORDER OF DISMISSAL

Plaintiff, Thomas M. Cole, is a prisoner in the custody of the United States Bureau of Prisons at the United States Penitentiary in Florence, Colorado. Mr. Cole initiated this action by filing *pro se* a Motion for Injunctive Relief (ECF No. 1) in which he complained about the conditions of his confinement. On February 20, 2013, Magistrate Judge Boyd N. Boland entered an order directing Mr. Cole to cure certain deficiencies if he wished to pursue any claims in this Court. Specifically, Magistrate Judge Boland ordered Mr. Cole to file a Prisoner Complaint and either to pay the \$350.00 filing fee or to file a properly supported Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915. Mr. Cole was warned that the action would be dismissed without further notice if he failed to cure the deficiencies within thirty days.

Mr. Cole has failed to cure the deficiencies within the time allowed and he has failed to respond in any way to Magistrate Judge Boland's February 20 order. Therefore, the action will be dismissed without prejudice for failure to cure the

deficiencies.

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 action is dismissed without prejudice pursuant to Rule 41(b) of the Federal Rules of Civil Procedure because Mr. Cole failed to cure the deficiencies as directed. It is

FURTHER ORDERED that the Motion for Injunctive Relief (ECF No. 1) is denied as moot. 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 28th day of March, 2013.

BY THE COURT:

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