

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 13-cv-01463-BNB

ROY J. MAIN,

Applicant,

v.

WARDEN RAE TIMME,

Respondent.

ORDER OF DISMISSAL

On June 26, 2013, Magistrate Judge Boyd N. Boland entered an order directing Applicant, Roy J. Main, to file a second amended application that clarifies the habeas corpus claim he is asserting in this action. Mr. Main was warned that the action would be dismissed without further notice if he failed to file a second amended application within thirty days.

Mr. Main has failed to file a second amended application within the time allowed and he has failed to respond in any way to Magistrate Judge Boland's June 26 order. Therefore, the action will be dismissed without prejudice for failure to comply with a court order.

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) and the amended application (ECF No. 6) are denied and the action is dismissed without prejudice pursuant to Rule 41(b) of the Federal Rules of Civil Procedure because Mr. Main failed to comply with a court order. It is

FURTHER ORDERED that no certificate of appealability will issue because Applicant has not made a substantial showing of the denial of a constitutional right. 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 1st day of August, 2013.

BY THE COURT:

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