

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 13-cv-01826-BNB

JOSE APODACA,

Petitioner,

v.

[NO DEFENDANT/RESPONDENT NAMED],

Defendant.

ORDER OF DISMISSAL

Petitioner, Jose Apadoca, is detained at the Jefferson County Detention facility in Golden, Colorado. He initiated this action by filing a Letter with the Court challenging the constitutionality of his state court criminal conviction.

In a July 11, 2013 Order, Magistrate Judge Boyd N. Boland directed Mr. Apadoca to cure certain enumerated deficiencies in this action. Mr. Apadoca was ordered to submit an Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C.

§ 2254. He was also ordered to file a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 on the court-approved form, or, alternatively, to pay the \$5.00 filing fee applicable to habeas corpus actions.

Mr. Apadoca has not filed any documents in compliance with the July 11 Order. Indeed, he has not communicated with the Court since he initiated this action on July 9, 2013. Accordingly, the action will be dismissed.

Finally, 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 Petitioner files a notice of appeal he must also 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 and this action are dismissed without prejudice for the failure of Petitioner, Jose Apadoca, to comply with the Court's July 11, 2013 Order Directing Petitioner to Cure Deficiencies and for failure to prosecute. It is

FURTHER ORDERED that no certificate of appealability will issue because jurists of reason would not debate the correctness of this procedural ruling and Mr. Apadoca 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. Mr. Apadoca may file a motion in the Tenth Circuit Court of Appeals.

DATED at Denver, Colorado, this 23rd day of August, 2013.

BY THE COURT:

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