

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 13-cv-02427-BNB

TODD ANTHONY AURIT,

Plaintiff,

v.

JOHN W. SUTHERS, et al.,
ANGEL MEDINA, et al.,
GERALD MARRONNEY, et al.,
LANCE INGALLS, et al.,
CHERYL LAYNE, et al.,
RICHARD CASCHETTE, et al.,
PAUL KING, et al., and
GEORGE BRAUCHER, et al., or any John or Jane Doe to be added at
Plaintiffs [sic] discretion,

Defendants.

ORDER OF DISMISSAL

Plaintiff, Todd A. Aurit, is a prisoner in the custody of the Colorado Department of Corrections who currently is incarcerated at the Fremont Correctional Facility in Cañon City, Colorado. He initiated the instant action by submitting *pro se* a Prisoner Complaint (ECF No. 1), a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 (ECF No. 3), and an affidavit (ECF No. 4).

The Court reviewed the documents and determined they were deficient. Therefore, on September 6, 2013, Magistrate Judge Boyd N. Boland entered an order (ECF No. 5) directing Mr. Aurit to cure certain enumerated deficiencies in the case within thirty days if he wished to pursue his claims.

The September 6 order pointed out that Mr. Aurit failed to submit either the \$400.00 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, i.e., the current form revised October 1, 2012, with an authorization and certificate of prison official. The September 6 order also pointed out that Mr. Aurit failed to submit a six-month certified account statement because he previously had done so. The September 6 order further directed him to file an amended Prisoner Complaint on the proper, Court-approved form that did not use *et al.* instead of listing all parties in the caption.

The September 6 order directed Mr. Aurit to obtain, with the assistance of his case manager or the facility's legal assistant, the current Court-approved forms for filing a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 and Prisoner Complaint. The order warned Mr. Aurit that if he failed to cure the designated deficiencies within thirty days, the action would be dismissed without prejudice and without further notice.

On September 24, 2013, Mr. Aurit submitted a document titled "Upon Petition in Limine, (In Camera)" (ECF No. 6). However, he has failed within the time allowed to cure the designated deficiencies. Therefore, the Prisoner Complaint and the action will be dismissed without prejudice for Mr. Aurit's failure to cure the designated deficiencies as directed within the time allowed.

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. Aurit 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 Prisoner Complaint (ECF No. 1) and the action are dismissed without prejudice pursuant to Rule 41(b) of the Federal Rules of Civil Procedure for the failure of Plaintiff, Todd A. Aurit, to cure the deficiencies designated in the order to cure of September 6, 2013, within the time allowed. 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 17th day of October, 2013.

BY THE COURT:

s/Christine M. Arguello
CHRISTINE M. ARGUELLO,
United States District Judge, for
LEWIS T. BABCOCK
Senior Judge, United States District Court