

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 13-cv-02674-BNB

EDWIN ACKERMAN

Applicant,

v.

UNITED STATES ARMY,

Respondent.

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ORDER OF DISMISSAL

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Applicant, Edwin Ackerman, is in the custody of the Colorado Department of Corrections and currently is incarcerated at the correctional facility in Sterling, Colorado. Applicant, acting *pro se*, initiated this action by filing a pleading titled "Petition for Habeas Corpus Pursuant to 28 USCS 2241." In an order entered on October 2, 2013, Magistrate Judge Boyd N. Boland directed Applicant to file his claims on a proper Court-approved form used in filing § 2241 actions. Magistrate Judge Boland also directed Applicant to submit a proper 28 U.S.C. § 1915 Motion and Affidavit that is used by prisoners seeking leave to proceed *in forma pauperis* in a § 2241 action, along with the required financial information, or in the alternative to pay the \$5 filing fee.

Magistrate Judge Boland warned Applicant that the action would be dismissed without further notice if he failed to comply with the October 2 Order within thirty days.

On October 21, 2013, Applicant filed his claims on a proper Court-approved form and submitted a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 in a Habeas Corpus Action. Applicant submitted an account statement along with the § 1915 Motion, but the statement is not certified by an officer of the institution where he is incarcerated and it is not current. Applicant has filed over twenty

actions with this Court, most recently *Ackerman v. Warden*, No. 12-cv-02138-LTB (D. Colo. Nov. 30, 2012). He is aware of the filing requirements and was able to comply with the Court's directives to cure deficiencies in Case No. 12-cv-02138-LTB.

Therefore, because Applicant is capable of curing deficiencies as directed but has failed to submit a current certified account statement within the time allowed, the action will be dismissed for failure to comply with the October 2, 2013 Order.

The Court also certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this Order is not 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 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 Application is denied and the action is dismissed without prejudice pursuant to Fed. R. Civ. P. 41(b) for failure to cure all deficiencies and for failure to prosecute. It is

FURTHER ORDERED that leave to proceed *in forma pauperis* on appeal is denied. It is

FURTHER ORDERED that all pending motions are denied as moot.

DATED at Denver, Colorado, this 13<sup>th</sup> day of November, 2013.

BY THE COURT:

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