

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 13-cv-02832-BNB

JOSE ALEJANDRO PACHECO-SANCHEZ,

Applicant,

v.

[NO NAMED RESPONDENT],

Respondent.

ORDER OF DISMISSAL

Applicant, Jose Alejandro Pacheco-Sanchez, is a prisoner who is incarcerated at the Willacy County Correctional Facility in Raymondville, Texas. He submitted to the Court *pro se* a letter in English (ECF No. 1) and in Spanish (ECF No. 3). On October 17, 2013, as part of the Court's review pursuant to D.C.COLO.LCivR 8.2, Magistrate Judge Boyd N. Boland noted certain deficiencies in the submitted letters, and ordered Applicant to cure the deficiencies within thirty days if he wished to pursue his claims. See ECF No. 4.

The October 17 pointed out that Applicant failed to submit either the \$5.00 filing fee or a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 in a Habeas Corpus Action on the proper, Court-approved form together with a certificate showing the current balance in his prison account. The October 17 order also pointed out that Applicant failed to submit an Application for Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241 on the proper, Court-approved form.

The October 17 directed Applicant to obtain, with the assistance of his case manager or the facility's legal assistant, the Court-approved forms for filing a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 in a Habeas Corpus Action and an Application for Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241. The October 17 order warned Applicant that, if he failed to cure the designated deficiencies within thirty days, the action would be dismissed without prejudice and without further notice.

Applicant has failed to cure the designated deficiencies within the time allowed or otherwise to communicate with the Court in any way. Therefore, the action will be dismissed without prejudice for Applicant's failure to cure the designated deficiencies as directed within the time allowed, and for his failure to prosecute.

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 Applicant 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 action is dismissed without prejudice pursuant to Rule 41(b) of the Federal Rules of Civil Procedure for the failure of Applicant, Jose Alejandro Pacheco-Sanchez, within the time allowed to cure the deficiencies designated in the order to cure of October 17, 2013, and for his failure to prosecute. 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. It is

FURTHER ORDERED that any pending motions are denied as moot.

DATED at Denver, Colorado, this 3rd day of December, 2013.

BY THE COURT:

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