

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 14-cv-00415-BNB

BOBBY JACK JENKINS,

Plaintiff,

v.

[NO DEFENDANTS NAMED],

Defendants.

ORDER OF DISMISSAL

Plaintiff, Bobby Jack Jenkins, is a federal prisoner in Colorado. Mr. Jenkins initiated this action by filing *pro se* a letter (ECF No. 1) complaining that he has been denied equal protection in connection with an appeal filed in the United States Court of Appeals for the Tenth Circuit. The instant action was commenced and, on February 14, 2014, Magistrate Judge Boyd N. Boland entered an order directing Mr. Jenkins to cure certain deficiencies if he wished to pursue any claims in this action. Specifically, Magistrate Judge Boland directed Mr. Jenkins to file on the court-approved form a Prisoner Complaint and either to pay filing and administrative fees totaling \$400.00 or to file on the court-approved form a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 along with a certified copy of his inmate trust fund account statement and an authorization to calculate and disburse filing fee payments. Mr. Jenkins was warned that the action would be dismissed without further notice if he failed to cure the deficiencies within thirty days.

On February 24, 2014, Mr. Jenkins filed a document (ECF No. 5) requesting appointment of counsel. On February 25, 2014, Magistrate Judge Boland entered a minute order denying the request for appointment of counsel as premature. On March 3, 2014, Mr. Jenkins returned the copy of Magistrate Judge Boland's February 25 minute order to the Court. (See ECF No. 6.)

Mr. Jenkins has failed to cure the deficiencies within the time allowed. He has failed to file on the proper form a Prisoner Complaint that identifies the claims he intends to pursue in this action and he has failed either to pay filing and administrative fees totaling \$400.00 or to file on the court-approved form a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 along with a certified copy of his inmate trust fund account statement and an authorization to calculate and disburse filing fee payments. Therefore, the action will be dismissed without prejudice for failure to cure the deficiencies.

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 Plaintiff files a notice of appeal he also must pay the full \$505 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 because Mr. Jenkins failed to cure the deficiencies as directed. 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 24th day of March, 2014.

BY THE COURT:

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