

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 14-cv-00453-BNB

KEASON B. COX,

Applicant,

v.

[NO NAMED RESPONDENT],

Respondent.

ORDER OF DISMISSAL

Applicant, Keason B. Cox, is a prisoner in the custody of the Colorado Department of Corrections at the correctional facility in Sterling, Colorado. Mr. Cox submitted a letter (ECF No. 1), *pro se*, on February 20, 2014.

Magistrate Judge Boyd N. Boland reviewed the letter and determined it was deficient. On February 21, 2014, Magistrate Judge Boland entered an order directing Mr. Cox within thirty days to cure certain enumerated deficiencies in the letter he filed. Magistrate Judge Boland directed Mr. Cox 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. § 2254. The February 21 order directed Mr. Cox to complete and submit those forms. Specifically, Mr. Cox was ordered to submit a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 in a Habeas Corpus Action, together

with a certificate showing the current balance in his prison account. Alternatively, he was informed he could pay the \$5.00 filing fee for a habeas corpus action. He also was directed to submit a § 2254 application that named as Respondent his current warden, superintendent, jailer, or other custodian.

On March 5, 2014, the Court denied by minute order (ECF No. 5) Mr. Cox's letter (ECF No. 4) of March 3, 2014, asking for legal advice. Mr. Cox has failed within the time allowed to cure any of the deficiencies in this case or otherwise communicate with the Court in any way. Therefore, the action will be dismissed without prejudice for Mr. Cox'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 Mr. Cox files a notice of appeal he also must pay the full \$505.00 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 dismissed without prejudice pursuant to Rule 41(b) of the Federal Rules of Civil Procedure for the failure of Applicant, Keason B. Cox, to cure the deficiencies designated in the order to cure of February 21, 2014, within the time allowed, 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 April 10, 2014, at Denver, Colorado.

BY THE COURT:

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