

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 14-cv-00868-BNB

ARI BAILEY,

Petitioner,

v.

DAVID J. EBBERT, Warden,

Respondent.

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ORDER OF DISMISSAL

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Petitioner, Ari Bailey, is in the custody of the federal Bureau of Prisons at USP-Florence, Colorado. He initiated this action by filing *pro se* in the United States District Court for the Middle District of Pennsylvania a Petition for a Writ of Habeas Corpus under 28 U.S.C. § 2241 (ECF No. 1-1) and an Application to Proceed in District Court without Prepaying Fees or Costs (ECF No. 1-2). On November 22, 2013, the Middle District of Pennsylvania entered an order transferring the action to the District of Colorado. (ECF No. 1). The action was docketed in this Court on March 25, 2014.

On March 31, 2014, Magistrate Judge Boyd N. Boland reviewed Petitioner's filings and determined that they were deficient. Magistrate Judge Boland directed Petitioner to submit 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 a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241 on the court-approved forms. Magistrate Judge Boland warned Petitioner in the March 31 Order that failure to cure the deficiencies noted would result in dismissal of this action without further notice.

On April 9, 2014, Magistrate Judge Boland granted Petitioner an extension of time until May 8, 2014 to comply with the March 31 Order and further directed the Clerk of the Court to mail copies of the necessary forms to Petitioner. (ECF No. 8). On May 6, 2014, Magistrate Judge Boland granted Petitioner an extension of time to June 6, 2014 to comply with the March 31 Order. (ECF No. 12). Magistrate Judge Boland noted in the May 6 Minute Order that the clerk's office had previously mailed copies of the necessary forms to Mr. Bailey. (*Id.*). Magistrate Judge Boland also warned Plaintiff that no further extensions of time would be granted absent a showing of just cause and that failure to comply with the court-ordered deadline may result in dismissal of this action without further notice.

Petitioner has now failed to comply with the March 31 Order. Further, he has not communicated with the Court since April 30. Accordingly, it is

ORDERED that this action is DISMISSED without prejudice pursuant to Rule 41(b) of the Federal Rules of Civil Procedure for the failure of Petitioner, Ari Bailey, to comply with the March 31, 2014 Order Directing Petitioner to Cure Deficiencies. It is

FURTHER ORDERED that no certificate of appealability will issue because jurists of reason would not debate the correctness of this procedural ruling and Mr. Bailey has not made a substantial showing of the denial of a constitutional right. It is

FURTHER ORDERED that leave to proceed *in forma pauperis* on appeal is denied for the purpose of appeal. 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. See *Coppedge v. United States*, 369 U.S. 438 (1962). If Petitioner files a notice of appeal he must also 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. It is

FURTHER ORDERED that all pending motions are DENIED as moot.

DATED at Denver, Colorado, this 13<sup>th</sup> day of June, 2014.

BY THE COURT:

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