

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 14-cv-01205-BNB

ERNEST DANIEL MEDINA, also known as  
ERNEST MEDINA,

Plaintiff,

v.

JOHN DOE, Denver County Sheriff,

Defendant.

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ORDER OF DISMISSAL

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Plaintiff, Ernest Daniel Medina currently is incarcerated at the Denver County Jail. He initiated the instant action by submitting *pro se* a Prisoner Complaint (ECF No. 1). The Court reviewed the Prisoner Complaint and determined it was deficient. Therefore, on April 30, 2014, Magistrate Judge Boyd N. Boland entered an order (ECF No. 3) directing Mr. Medina to cure certain enumerated deficiencies in the case within thirty days if he wished to pursue his claims.

The April 30 order pointed out that Mr. Medina failed to submit either the \$400.00 filing fee or a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 on the proper, Court-approved form, i.e., the current form revised October 1, 2012, with an authorization and certificate of prison official, together with a certified copy of his trust fund account statement for the six-month period immediately preceding this filing obtained from the appropriate prison official. The April 30 order also directed Mr. Medina to submit an amended Prisoner Complaint on the proper,

Court-approved form that complied with the pleading requirements of Rule 8 of the Federal Rules of Civil Procedure. The April 30 order directed Mr. Medina 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 and a Prisoner Complaint, and to use those forms in curing the designated deficiencies and filing an amended Prisoner Complaint that complied with Fed. R. Civ. P. 8. The April 30 order warned him that if he failed to cure the designated deficiencies and file an amended Prisoner Complaint within thirty days, some claims against some Defendants or the entire Prisoner Complaint and the action may be dismissed without further notice.

Mr. Medina has failed to cure any of the designated deficiencies, file an amended Prisoner Complaint within the time allowed, or otherwise to communicate with the Court in any way. Therefore, the Prisoner Complaint and the action will be dismissed without prejudice for Mr. Medina's failure to cure the designated deficiencies and file an amended Prisoner Complaint 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. Medina 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 Prisoner Complaint (ECF No. 1) and the action are dismissed without prejudice pursuant to Rule 41(b) of the Federal Rules of Civil Procedure for the failure of Plaintiff, Ernest Daniel Medina, within the time allowed to cure the deficiencies designated in the order to cure of April 30, 2014, and file an amended Prisoner Complaint that complied with Rule 8 of the Federal Rules of Civil Procedures, and for his failure to prosecute. It is

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

FURTHER ORDERED that any pending motions are denied as moot.

DATED at Denver, Colorado, this 6<sup>th</sup> day of June, 2014.

BY THE COURT:

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