

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 14-cv-01229-BNB

ELVIS WAYNE JONES,

Plaintiff,

v.

[NO NAMED DEFENDANT],

Defendant.

ORDER OF DISMISSAL

Plaintiff, Elvis Wayne Jones, is a prisoner in the custody of the Texas Department of Criminal Justice who currently is incarcerated at the Alfred D. Hughes Unit in Gatesville, Texas. He attempted to initiate the instant action by filing *pro se* a letter (ECF No. 1). The Court reviewed the letter and determined it was deficient. Therefore, on April 30, 2014, Magistrate Judge Boyd N. Boland entered an order (ECF No. 3) directing Mr. Jones 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. Jones 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 pointed out that Mr. Jones failed to submit a Prisoner Complaint on the proper, Court-approved form. The April 30 order directed Mr. Jones 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. The April 30 order warned him that if he failed to cure the designated deficiencies within thirty days, the action would be dismissed without prejudice and without further notice.

Mr. Jones 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 Mr. Jones' 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. Jones 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 is dismissed without prejudice pursuant to Rule 41(b) of the Federal Rules of Civil Procedure for the failure of Plaintiff, Elvis Wayne Jones, to cure the deficiencies designated in the order to cure of April 30, 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. It is

FURTHER ORDERED that any pending motions are denied as moot.

DATED at Denver, Colorado, this 6th day of June, 2014.

BY THE COURT:

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