

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 14-cv-01295-BNB

RAYMOND LARA,

Applicant,

v.

PEOPLE OF THE UNITED STATES,

Respondent.

ORDER OF DISMISSAL

Applicant, Raymond Lara, is a state prisoner at the Limon Correctional Facility in Limon, Colorado. On May 6, 2014, Applicant submitted *pro se* a document (ECF No. 1) requesting that the Court toll the one-year limitation period for filing his 28 U.S.C. § 2254 action. The request was denied without prejudice, but the instant action was commenced because it appeared that Applicant intended to seek federal habeas corpus relief.

On May 8, 2014, Magistrate Judge Boyd N. Boland reviewed the document and determined that it was deficient. Judge Boland entered an order directing Applicant to cure certain enumerated deficiencies within thirty days; directing Applicant to submit on the Court-approved form an Application for Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254; and informing Applicant that the only proper Respondent in a habeas corpus action is his current warden, superintendent, jailer, or other custodian. Judge Boland also directed Applicant to obtain a Prisoner's Motion and Affidavit for Leave to

Proceed Pursuant to 28 U.S.C. § 1915 in a Habeas Corpus Action and explained that Applicant could pay the \$5.00 filing fee instead of submitting the § 1915 documentation.

Applicant has failed within the time allowed to submit an Application for Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254 and a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 in a Habeas Corpus Action on the proper, Court-approved forms. Accordingly, Applicant has failed to cure all of the deficiencies in this case, or otherwise communicate with the Court in any way. Therefore, the action will be dismissed without prejudice for Applicant's failure to cure the designated deficiencies within the time allowed and for 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 Applicant 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 Applicant, Raymond Lara, to cure the deficiencies designated in the order to cure of May 8, 2014, within the time allowed. 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 June 20, 2014, at Denver, Colorado.

BY THE COURT:

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