

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 14-cv-01419-BNB

DEJUAN B. THORNTON-BEY

Petitioner,

v.

D. BERKEBILE,

Respondent.

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ORDER OF DISMISSAL

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Petitioner, DeJuan B. Thornton-Bey, is a prisoner in the custody of the Federal Bureau of Prisons at the United States Penitentiary, Florence ADMAX, in Florence, Colorado. Mr. Thornton-Bey initiated this action by filing *pro se* two documents titled “Writ of Habeas Corpus” (ECF No. 1) and “Filing Fee” (ECF No. 3). On May 21, 2014, Magistrate Judge Boyd N. Boland entered an order directing Mr. Thornton-Bey to cure certain deficiencies if he wished to pursue any claims in this action. Specifically, Magistrate Judge Boland directed Mr. Thornton-Bey to file an application for a writ of habeas corpus on the proper form and either to pay the \$5.00 filing fee or to file a properly supported prisoner’s motion seeking leave to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915. Mr. Thornton-Bey was warned that the action would be dismissed without further notice if he failed to cure the deficiencies within thirty days. On June 24, 2012, Judge Boland granted Mr. Thornton-Bey’s request for an extension of time to cure deficiencies.

Mr. Thornton-Bey, however, has failed to cure the deficiencies within the time allowed and has failed to respond in any way to Judge Boland's June 24 minute order. Therefore, the action will be dismissed without prejudice for failure to cure deficiencies.

Furthermore, 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 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 Petitioner files a notice of appeal he also must 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. Accordingly, it is

ORDERED that the "Writ of Habeas Corpus" (ECF No. 1) is denied and the action is dismissed without prejudice pursuant to Rule 41(b) of the Federal Rules of Civil Procedure because Mr. Thornton-Bey failed to cure the deficiencies as directed. 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.

DATED at Denver, Colorado, this 1<sup>st</sup> day of August, 2014.

BY THE COURT:

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