

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 14-cv-01661-BNB

RICHARD BARBEE,

Plaintiff,

v.

FRANCES FALK,  
MATT HANSON,  
CAPTAIN PLIEDMAN,  
CAPTAIN GABRIEL, and  
JOHN KIRKLAND,

Defendants.

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ORDER OF DISMISSAL

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Plaintiff, Richard Barbee, is a prisoner in the custody of the Colorado Department of Corrections. Mr. Barbee initiated this action by filing *pro se* a Prisoner Complaint (ECF No. 1), a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 (ECF No. 3), and "Petitioner's Motion to Certify the Class Pursuant to Fed. R. Civ. P. 23" (ECF No. 4). On June 13, 2014, Magistrate Judge Boyd N. Boland entered an order directing Mr. Barbee to cure certain deficiencies if he wished to pursue his claims. Specifically, Magistrate Judge Boland directed Mr. Barbee to submit a certified copy of his inmate trust fund account statement and an authorization to calculate and disburse filing fee payments. Mr. Barbee was warned that the action would be dismissed without further notice if he failed to cure the deficiencies within thirty days.

On July 16, 2014, Mr. Barbee filed a “Motion to Authorize and Calculate and Disburse Filing Fee Payments” (ECF No. 6) along with a certified copy of his inmate trust fund account statement. On July 17, 2014, Magistrate Judge Boland entered a minute order denying the “Motion to Authorize and Calculate and Disburse Filing Fee Payments” because Mr. Barbee did not submit an authorization to calculate and disburse filing fee payments on the proper form as required by the Court’s local rules. Magistrate Judge Boland advised Mr. Barbee how to obtain the proper form to cure the remaining deficiency, directed Mr. Barbee to cure the remaining deficiency within thirty days, and warned Mr. Barbee that the action would be dismissed without prejudice and without further notice if he failed to cure the remaining deficiency within the time allowed.

Mr. Barbee has failed to cure the remaining deficiency within the time allowed and has submitted no other filings in this action. Therefore, the complaint and the action will be dismissed without prejudice for failure to cure all of the 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 Plaintiff 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 Prisoner Complaint and the action are dismissed without prejudice pursuant to Rule 41(b) of the Federal Rules of Civil Procedure because Mr.

Barbee failed to cure all of the deficiencies as directed. It is

FURTHER ORDERED that the Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 (ECF No. 3) and "Petitioner's Motion to Certify the Class Pursuant to Fed. R. Civ. P. 23" (ECF No. 4) are DENIED as moot. 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 25<sup>th</sup> day of August, 2014.

BY THE COURT:

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