

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 14-cv-01747-BNB

RANDY KAILEY,

Applicant,

v.

JEFFERSON COUNTY, COLORADO, SHERIFF'S DEPARTMENT,
THEODORE "TED" MINK, Sheriff, and
PETER A. WEIR, District Attorney,

Respondents.

ORDER OF DISMISSAL

Applicant, Randy Kailey, is detained at the Jefferson County Detention Facility in Golden, Colorado. On June 23, 2014, Applicant initiated this action by filing *pro se* an Application for a 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. Magistrate Judge Boyd N. Boland reviewed the Application and determined that Applicant's claims more properly are raised in a 28 U.S.C. § 2241 action. Applicant was directed to submit his claims on a Court-approved form used in filing 28 U.S.C. § 2241 actions. Magistrate Judge Boland also directed Applicant to submit a certified trust fund account statement that shows Applicant's current balance in his prison account as of the date the action was filed.

Magistrate Judge Boland warned Applicant that the action would be dismissed without further notice if he failed to comply within thirty days. Applicant now has failed

to comply within the time allowed. Therefore, the action will be dismissed.

The Court also certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this Order is not 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 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 Application is denied and the action is dismissed without prejudice pursuant to Fed. R. Civ. P. 41(b) for failure to cure all deficiencies and for 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 12th day of August, 2014.

BY THE COURT:

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