

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 14-cv-01768-BNB

JERRY STOROVICH,

Applicant,

v.

[NO RESPONDENT NAMED],

Respondent.

ORDER OF DISMISSAL

Applicant, Jerry Storovich, is a prisoner in the custody of the Colorado Department of Corrections. Mr. Storovich initiated this action by filing *pro se* a letter to the Court (ECF No. 1) contending he is being held illegally because prison officials are not computing his sentence correctly. The instant habeas corpus action was commenced and, on June 25, 2014, Magistrate Judge Boyd N. Boland entered an order directing Mr. Storovich to cure certain deficiencies if he wished to pursue any claims in this action. Specifically, Magistrate Judge Boland directed Mr. Storovich to file on the court-approved form an Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241 and either to pay the \$5.00 filing fee for a habeas corpus action or to file on the court-approved form a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 in a Habeas Corpus Action. Mr. Storovich was warned that the action would be dismissed without further notice if he failed to cure the deficiencies within thirty days.

On July 3, 2014, Mr. Storovich paid the \$5.00 filing fee for a habeas corpus action. However, he has failed to cure all of the deficiencies because he has failed to file on the proper form an Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241 that identifies the claims he intends to pursue in this action. Therefore, 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 Applicant 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 action is dismissed without prejudice pursuant to Rule 41(b) of the Federal Rules of Civil Procedure because Mr. Storovich failed to cure all of the deficiencies as directed. It is

FURTHER ORDERED that no certificate of appealability will issue because Applicant has not made a substantial showing of the denial of a constitutional right. 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 1st day of August, 2014.

BY THE COURT:

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