

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 14-cv-01878-BNB

LUKE AMMON (PREACHER): Of Preacher Clan, Sui Generis,

Applicant,

v.

ERIC HOLDER, and
D. BERKEBILE,

Respondents.

ORDER OF DISMISSAL

Applicant, Luke Ammon, is in the custody of the Federal Bureau of Prisons (BOP) at ADX in Florence, Colorado. Applicant initiated this action by filing *pro se* an Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241. In an order entered on July 8, 2014, Magistrate Judge Boyd N. Boland instructed Applicant to cure certain deficiencies if he wished to pursue his claims. Specifically, Magistrate Judge Boland instructed Applicant either to pay the \$5 filing fee or in the alternative submit a request to proceed pursuant to 28 U.S.C. § 1915.

Magistrate Judge Boland noted in the July 8 Order that Applicant attached to the Application a BOP request for withdrawal of \$5 from his inmate account, but no such payment has been received. Subsequently, Applicant filed a request for the return of "\$255" from the Court. Applicant claims that \$300, rather than \$5, was withdrawn from his account for payment of the filing fee in this case, and he wants the balance returned to him. (If Applicant did submit \$300, the balance owed to him would be \$295 not \$255.) The Court has verified with the Financial Division of the Clerk's Office that no money has been received from Applicant as payment of the filing fee in this case. Applicant has provided no evidence that \$300 was withdrawn from his inmate account

and submitted to this Court for payment of a filing fee in this case. Applicant also has failed to submit a request to proceed pursuant to 28 U.S.C. § 1915 in the alternative.

Magistrate Judge Boland warned Applicant that the action would be dismissed without further notice if he failed to cure the deficiencies within thirty days. The action, therefore, will be dismissed for failure to comply with a court order within the time allowed.

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.

DATED at Denver, Colorado, this 19th day of August, 2014.

BY THE COURT:

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