

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 14-cv-02043-BNB

ARZELL GULLEY,

Plaintiff,

v.

UNITED STATES PENITENTIARY (ADX),
BERKEBILE, Warden,

Defendants.

ORDER OF DISMISSAL

Plaintiff, Arzell Gulley, is in the custody of the federal Bureau of Prisons at the ADX in Florence, Colorado. Mr. Gulley initiated this action on July 23, 2014, by filing a Letter with the Court complaining about his conditions of confinement. (ECF No. 1). The Court opened a civil rights action pursuant to 28 U.S.C. § 1331 and *Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics*, 403 U.S. 388 (1971).

On September 10, 2014, Magistrate Judge Boyd N. Boland reviewed Mr. Gulley's filing and determined that it was deficient. Magistrate Judge Boland directed Plaintiff to submit a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 and a Prisoner Complaint on the court-approved forms. Magistrate Judge Boland advised Mr. Gulley that he could pay the \$400.00 filing fee in lieu of submitting a § 1915 motion and affidavit. Plaintiff was warned in the September 10 Order that failure to cure the deficiencies would result in dismissal of this action without further notice.

Mr. Gulley has failed to comply with the September 10 Order. Moreover, he has

not communicated with the Court since he initiated this action. Accordingly, it is

ORDERED that this action is DISMISSED without prejudice pursuant to Rule 41(b) of the Federal Rules of Civil Procedure for the failure of Plaintiff, Arzell Gulley, to comply with the September 10, 2014 Order Directing Plaintiff to Cure Deficiencies. It is

FURTHER ORDERED that leave to proceed *in forma pauperis* on appeal is denied for the purpose of appeal. 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. See *Coppedge v. United States*, 369 U.S. 438 (1962). If Mr. Gulley files a notice of appeal he must also 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.

DATED October 17, 2014, at Denver, Colorado.

BY THE COURT:

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