

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 14-cv-02332-BNB

JOSHUA LAFOY CHASTEEN,

Plaintiff,

v.

MESA COUNTY COMBINED COURT,

Defendant.

ORDER OF DISMISSAL

Plaintiff, Joshua Lafoy Chasteen, is detained at the Mesa County Detention Facility, in Grand Junction, Colorado. Mr. Chasteen initiated this action on August 21, 2014, by filing a "Notice of Claim" (ECF No. 1) complaining about the conditions of his confinement. The Court opened this case pursuant to 42 U.S.C. § 1983.

On August 22, 2014, Magistrate Judge Boyd N. Boland reviewed Mr. Chasteen'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. Chasteen that he could pay the \$400.00 filing fee in lieu of submitting a § 1915 motion and affidavit. Plaintiff was warned in the August 22 Order that failure to cure the deficiencies would result in dismissal of this action without further notice.

On September 18, 2014, Plaintiff filed a letter with the Court (ECF No. 7) requesting an extension of time to comply with the August 22 Order and asking the

Court to provide him with copies of the necessary forms. Magistrate Judge Boland granted the request in a September 22, 2014 Minute Order, and directed Mr. Chasteen to comply within thirty days. (*Id.*). Magistrate Judge Boland also directed the Clerk of the Court to mail to Plaintiff copies of the court-approved forms for filing a Prisoner Complaint and a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915. (*Id.*). Copies of the court-approved forms were mailed to Plaintiff on September 22, 2014. (See ECF No. 9).

On September 23, 2014, before he received copies of the court-approved forms sent to him on September 22, 2014, Mr. Chasteen filed a document with the Court, which the clerk's office docketed as a "complaint." (ECF No. 10). Plaintiff also filed an "Affidavit of Leave to Proceed (Pursuant to 28 U.S.C. § 1915)" on September 23, 2014. (ECF No. 11). The documents filed by Plaintiff on September 23 are deficient because they were not submitted on the court-approved forms.

Mr. Chasteen has now failed to cure the deficiencies enumerated in the August 22 Order. The copy of the August 22 Order sent to Plaintiff has not been returned to the Court as undeliverable, so the Court assumes he received the Order, along with the copies of the court-approved forms mailed to him on September 23, 2014. However, Mr. Chasteen has not communicated with the Court since September 23, 2013. 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, Joshua Lafoy Chasteen, to comply with the August 22, 2014 Order Directing Plaintiff to Cure Deficiencies and the September 22, 2014 Minute Order. 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. Chasteen 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. It is

FURTHER ORDERED that the “Affidavit of Leave to Proceed (Pursuant to 28 U.S.C. § 1915),” (ECF No. 11), filed on September 23, 2014, is DENIED as moot.

DATED at Denver, Colorado, this 29th day of October, 2014.

BY THE COURT:

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