

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 14-cv-02413-BNB

LOUIS R. BELTRAN, et al.,

Plaintiffs,

v.

FRANCES FALK,
MATT HANSEN,
MAJOR BUTCHER,
CAPT. PLIEMAN,
CAPT. GABRIEL,
LT. KIRKLAND,
LT. KAREN COOPER, and
P. TORIBIO,

Defendants.

ORDER OF DISMISSAL

On August 29, 2014, Plaintiffs, who apparently are prisoners in the custody of the Colorado Department of Corrections at the correctional facility in Limon, Colorado, submitted *pro se* a Prisoner Complaint (ECF No. 1) signed by six individuals, and a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 (ECF No. 2) also signed by six individuals. All of the signatures are illegible

The Court reviewed the documents and determined they were deficient. Therefore, on September 2, 2014, Magistrate Judge Boyd N. Boland entered an order (ECF No. 5) directing Plaintiffs to cure certain enumerated deficiencies in the case within thirty days if they wished to pursue their claims.

The September 2 order pointed out that Plaintiffs collectively failed to submit either the \$400.00 filing fee or, alternatively, Prisoner's Motion and Affidavits for Leave to Proceed Pursuant to 28 U.S.C. § 1915 on the proper, Court-approved form completed by each Plaintiff. The September 2 order also pointed out that all parties are not listed in the caption to the Prisoner Complaint and the names of all Plaintiffs were illegible.

The September 2 order directed Plaintiffs to obtain, with the assistance of their case manager or the facility's legal assistant, the Court-approved forms for filing a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 and a Prisoner Complaint. The September 2 order warned them that if they failed to cure the designated deficiencies within thirty days, the action may be dismissed without prejudice and without further notice. Magistrate Judge Boland directed the clerk of the Court to mail of copy of the September 2 order to the only known Plaintiff, Louis R. Beltran.

Plaintiffs have failed within the time allowed to cure the designated deficiencies, or otherwise communicate with the Court in any way. Therefore, the Prisoner Complaint and the action will be dismissed without prejudice for Plaintiffs' failure to cure the designated deficiencies within the time allowed, and for their failure to prosecute.

Finally, the Court certifies pursuant to § 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 Mr. Plaintiffs file a notice of appeal they also must pay the full \$505.00 appellate filing fee or file individual motions 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 Prisoner Complaint (ECF No. 1) and the action are dismissed without prejudice pursuant to Rule 41(b) of the Federal Rules of Civil Procedure for the failure of Plaintiffs to cure the deficiencies designated in the order to cure of September 2, 2014, within the time allowed, and for their 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. It is

FURTHER ORDERED that the clerk of the Court mail a copy of this order to the only known Plaintiff, Louis R. Beltran.

DATED at Denver, Colorado, this 10th day of October, 2014.

BY THE COURT:

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