

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 14-cv-02465-BNB

THERON MAXTON,

Plaintiff,

v.

[NO DEFENDANTS NAMED],

Defendants.

ORDER OF DISMISSAL

Plaintiff, Theron Maxton, is a federal prisoner in Colorado. Mr. Maxton initiated this action by filing *pro se* a letter requesting a court order directing the United States Marshal to take him to an outside doctor to obtain eye glasses. This civil action was commenced and, on September 5, 2014, Magistrate Judge Boyd N. Boland entered an order directing Mr. Maxton to cure certain deficiencies if he wished to pursue any claims. Specifically, Magistrate Judge Boland directed Mr. Maxton to file on the proper form a Prisoner Complaint and either to pay filing and administrative fees totaling \$400.00 or to file a properly supported Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915. Mr. Maxton was warned that the action would be dismissed without further notice if he failed to cure the deficiencies within thirty days.

Mr. Maxton has failed to cure the deficiencies within the time allowed and has failed to respond in any way to Magistrate Judge Boland's September 5 order. Therefore, the action will be dismissed without prejudice for failure to cure 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 Plaintiff 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. Maxton failed to cure the deficiencies as directed. 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 9th day of October, 2014.

BY THE COURT:

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