

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 14-cv-02589-BNB

DAWANE A. MALLETT,

Plaintiff,

v.

CHARLES E. SAMUELS,
J. COULTER,
PAUL ZOHN, and
J. MARTINEZ,

Defendants.

ORDER OF DISMISSAL

Plaintiff, Dawane A. Mallett, is a federal prisoner in Colorado. Mr. Mallett initiated this action by filing *pro se* in the United States District Court for the District of Columbia a Complaint for Violation of Civil Rights (ECF No. 1-1) and a motion seeking leave to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915 (ECF No. 1-3). On September 18, 2014, the action was transferred to the District of Colorado. On September 19, 2014, Magistrate Judge Boyd N. Boland ordered Mr. Mallett to cure certain deficiencies if he wished to pursue his claims. Specifically, Magistrate Judge Boland ordered Mr. Mallett to file on the proper forms a Prisoner Complaint and a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 along with a certified copy of his inmate trust fund account statement. Mr. Mallett was warned that the action would be dismissed without further notice if he failed to cure the deficiencies within thirty days.

Mr. Mallett has failed to cure the deficiencies within the time allowed and he has failed to respond in any way to Magistrate Judge Boland's September 19 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. Mallett 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 27th day of October, 2014.

BY THE COURT:

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