

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 14-cv-02644-BNB

ISHMAEL PETTY,

Plaintiff,

v.

[NO NAMED DEFENDANT],

Defendant.

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ORDER OF DISMISSAL

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Plaintiff Ishmael Petty is in the custody of the Federal Bureau of Prisons and currently is incarcerated at the United States Penitentiary in Florence, Colorado. Plaintiff initiated this action by filing *pro se* a Letter. In the Letter, Plaintiff challenges the conditions of his confinement. On September 25, 2014, Magistrate Judge Boyd N. entered an order that construed the Letter as a prisoner complaint and directed Plaintiff to cure certain deficiencies. Specifically, Plaintiff was instructed either to submit a request to proceed pursuant to 28 U.S.C. § 1915 or in the alternative to pay the \$400 filing fee in full. Plaintiff also was directed to file his claims on a proper Court-approved form used in filing prisoner complaints. Magistrate Judge Boland warned Plaintiff that the action would be dismissed without further notice if he failed to cure the deficiencies within thirty days.

Rather than cure the deficiencies, Plaintiff filed a request for appointment of counsel to assist him with this action. Magistrate Judge Boland denied the request because the issues are not so complex that Plaintiff is unable to comply with the Order to Cure Deficiencies. Because Plaintiff now has failed to comply with the July 25, 2014 Order, within the time allowed, the action will be dismissed without prejudice for failure

to cure the deficiencies.

The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this order is not taken in good faith, and, therefore, *in forma pauperis* status is denied for the purpose of appeal. See *Coppedge v. United States*, 369 U.S. 438 (1962). If Plaintiff 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 Tenth Circuit within thirty days in accordance with Fed. R. App. P. 24. Accordingly, it is

ORDERED that the Complaint and action are dismissed without prejudice pursuant to Fed. R. Civ. P. 41(b) for failure to cure the deficiencies and for failure to prosecute. It is

FURTHER ORDERED that leave to proceed *in forma pauperis* on appeal is denied. It is

FURTHER ORDERED that all pending motions are denied as moot.

DATED at Denver, Colorado, this 10<sup>th</sup> day of November, 2014.

BY THE COURT:

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