

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 14-cv-02708-BNB

GEOFFREY W. MANSFIELD,

Plaintiff,

v.

PEABODY ENERGY 20 MILE COAL CO.,

Defendant.

ORDER OF DISMISSAL

Plaintiff, Geoffrey W. Mansfield, initiated this action by filing *pro se* a Motion for Extension of Time (ECF No. 1). Attached to the Motion for Extension of Time are a Charge of Discrimination and a notice of right to sue from the Equal Employment Opportunity Commission. The instant action was commenced and, on October 3, 2014, Magistrate Judge Boyd N. Boland entered an order denying the motion for extension of time and directing Mr. Mansfield to cure certain deficiencies if he wished to pursue his claims in this action. Specifically, Magistrate Judge Boland directed Mr. Mansfield to file on the court-approved form a Title VII Complaint and either to pay filing and administrative fees totaling \$400.00 or to file on the court-approved form an Application to Proceed in District Court Without Prepaying Fees or Costs (Long Form). Mr. Mansfield was warned that the action would be dismissed without further notice if he failed to cure the deficiencies within thirty days.

On November 3, 2014, Mr. Mansfield filed a Motion and Affidavit for Leave to

Proceed on Appeal Pursuant to 28 U.S.C. § 1915 and Fed. R. App. P. 24 (ECF No. 4). However, the *in forma pauperis* motion filed on November 3 is not on the proper form and, more importantly, Mr. Mansfield has not filed a complaint within the time allowed as directed. 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. Mansfield 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. It is

FURTHER ORDERED that the pending motions are denied as moot.

DATED at Denver, Colorado, this 7th day of November, 2014.

BY THE COURT:

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