

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 14-cv-03026-GPG

TRAVIS HODSON,

Plaintiff,

v.

UNKNOWN OFFICERS,
BIRGIT M. FISHER,
ROCHELLE BEIER-KERMET,
KAIRI VAHER, Nurse Practitioner,
JENNIFER [LAST NAME UNKNOWN] (RN), Register [sic] Nurse, and
BRENDA DEMACHET, Psychologist,

Defendants.

SECOND ORDER TO CURE DEFICIENCIES

Plaintiff, Travis Hodson, currently is confined at the Colorado Mental Health Institute in Pueblo, Colorado. He initiated this action by filing *pro se* a Prisoner Complaint (ECF No. 1) pursuant to 42 U.S.C. § 1983 for money damages. The Court reviewed the Prisoner Complaint and determined it was deficient. Therefore, on November 11, 2014, Magistrate Judge Boyd N. Boland entered an order (ECF No. 3) directing Mr. Hodson to cure certain enumerated deficiencies in the case within thirty days if he wished to pursue his claims.

The November 11 order pointed out that Mr. Hodson failed to submit either the \$400.00 filing fee or a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 on the proper, Court-approved form, i.e., the current form revised October 1, 2012, with an authorization and certificate of prison official. The November

11 order also pointed out that Mr. Hodson failed to submit a certified copy of his trust fund account statement for the six-month period immediately preceding this filing. The November 11 order directed Mr. Hodson to obtain, with the assistance of his 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, and to use those forms in curing the designated deficiencies and in filing a Prisoner Complaint that clarified whether Plaintiff was a prisoner, complied with the pleading requirements of Rule 8 of the Federal Rules of Civil Procedure, and alleged each Defendant's personal participation in the alleged constitutional violations. The November 11 order warned him that if he failed to cure the designated deficiencies and file an amended Prisoner Complaint as directed within thirty days, the action may be dismissed without prejudice and without further notice.

On November 20, 2014, Mr. Hodson filed a Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 (ECF No. 5), which is an improper form to file if Mr. Hodson is not a prisoner, together with an uncertified account ledger (ECF No. 5 at 4), which does not qualify as a certified copy of his trust fund account statement for the six-month period immediately preceding this filing. On December 10, 2014, Mr. Hodson filed a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 (ECF No. 7), but failed to complete the authorization and certificate of prison official and attach a certified copy of his trust fund account statement for the six-month period immediately preceding this filing. Therefore, neither § 1915 motion Mr. Holdson submitted cured the deficiencies designated in the November 11 order. Mr. Hodson

also filed an amended Prisoner Complaint (ECF No. 6) pursuant to § 1983 for money damages.

Mr. Hodson will be allowed a final opportunity to submit a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 on the proper, Court-approved form. Mr. Hodson will be directed to complete and submit all pages of the form and attach a certified copy of his trust fund account statement for the six-month period immediately preceding this filing. Failure to do so within the time allowed may result in the dismissal of the instant action.

Accordingly, it is

ORDERED that Plaintiff, Travis Hodson, cure the deficiencies designated above and file on the proper, Court-approved form a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915. Mr. Hodson shall complete all pages of the form and attach a certified copy of his trust fund account statement for the six-month period immediately preceding this filing. It is

FURTHER ORDERED that the clerk of the Court shall mail to Mr. Hodson, together with a copy of this order, a copy of the Court-approved form for filing a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915. It is

FURTHER ORDERED that, if Plaintiff fails to cure the designated deficiencies as directed **within thirty (30) days from the date of this order**, the amended Prisoner

Complaint and the action may be dismissed without further notice.

DATED December 17, 2014, at Denver, Colorado.

BY THE COURT:

S/ Gordon P. Gallagher

GORDON P. GALLAGHER
United States Magistrate Judge