

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 14-cv-03271-GPG

ARTHUR E. MILLER,

Applicant,

v.

[NO RESPONDENT NAMED],

Respondent.

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ORDER OF DISMISSAL

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Applicant, Arthur E. Miller, is a prisoner in the custody of the Colorado Department of Corrections. Mr. Miller initiated this action by filing *pro se* a letter to the Court (ECF No. 1) alleging, in part, that his civil rights have been violated by the Colorado Parole Board. Because it appeared that Mr. Miller may intend to seek some sort of relief with respect to the execution of his sentence, the instant habeas corpus action was commenced. On December 2, 2014, Magistrate Judge Gordon P. Gallagher entered an order directing Mr. Miller to cure certain deficiencies if he wished to pursue any claims. Specifically, Magistrate Judge Gallagher ordered Mr. Miller to file an Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241 and either to pay the \$5.00 filing fee for a habeas corpus action or to file a properly supported Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 in a Habeas Corpus Action. Mr. Miller was warned that the action would be dismissed without further notice if he failed to cure the deficiencies within thirty days.

Mr. Miller has failed to cure the deficiencies within the time allowed and he has

failed to respond in any way to Magistrate Judge Gallagher's December 2 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 Applicant 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. Miller failed to cure the deficiencies as directed. It is

FURTHER ORDERED that no certificate of appealability will issue because Applicant has not made a substantial showing of the denial of a constitutional right. 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 9<sup>th</sup> day of January, 2015.

BY THE COURT:

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