

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 14-cv-03272-GPG

CLIFFORD SCHUETT,

Plaintiff,

v.

USA,

Defendant.

ORDER OF DISMISSAL

Plaintiff, Clifford Schuett, is an inmate at the Southern Correctional Center in Pahrump, Nevada. Mr. Schuett initiated this action by filing *pro se* a document titled "Motion for a Protection Order (Imminent Danger)" (ECF No. 1). On December 2, 2014, Magistrate Judge Gordon P. Gallagher entered an order directing Mr. Schuett to cure certain deficiencies if he wished to pursue his claims. Specifically, Magistrate Judge Gallagher directed Mr. Schuett to file a Prisoner Complaint and either to pay filing and administrative fees totaling \$400.00 or to file 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. Schuett was warned that the action would be dismissed without further notice if he failed to cure these deficiencies within thirty days.

On December 4, 2014, Mr. Schuett filed a letter (ECF No. 4) requesting protection from the Court. Mr. Schuett has not filed a Prisoner Complaint and he has failed either to pay the required filing and administrative fees or to file a properly

supported Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915. Therefore, the action will be dismissed without prejudice for failure to cure the deficiencies within the time allowed.

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. Schuett 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 16th day of January, 2015.

BY THE COURT:

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