

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 14-cv-03379-GPG

MICHAEL A. MARTINEZ,

Plaintiff,

v.

WASHINGTON COUNTY JUSTICE CENTER, and
ALL EMPLOYEES IN THEIR INDIVIDUAL AND OFFICIAL CAPACITIES,

Defendants.

ORDER OF DISMISSAL

Plaintiff Michael A. Martinez currently is detained at the Washington County Justice Center in Akron, Colorado. Plaintiff initiated this action by filing *pro se* a Letter of Intent, ECF No. 1, stating that he intends to file a 42 U.S.C. § 1983 action. In an order entered on December 15, 2014, Magistrate Judge Gordon P. Gallagher told Plaintiff that if he intends to pursue an action he must cure certain deficiencies. Specifically, Magistrate Judge Gallagher directed Plaintiff to file his claims on a Court-approved form used in filing a prisoner complaint and either to submit a request to proceed pursuant to 28 U.S.C. § 1915 or pay the \$400 filing fee. Magistrate Judge Gallagher warned Plaintiff that the action would be dismissed without further notice if he failed to cure the deficiencies within thirty days.

On January 7, 2015, Plaintiff filed a Motion for Extension of Time, ECF No. 4, to cure the deficiencies. Magistrate Judge Gallagher entered an Order on January 7, 2014, granting the Motion and directed Plaintiff to cure the deficiencies within thirty days. Plaintiff now has failed to communicate with the Court, and as a result, he has

failed to cure the deficiencies within the time allowed. The Court, therefore, will dismiss the action.

The Court also 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 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 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 Complaint and action are dismissed without prejudice pursuant to Fed. R. Civ. P. 41(b) for failure to comply with the December 15, 2014 Order, within the time allowed, and for failure to prosecute. It is

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

DATED at Denver, Colorado, this 13th day of February, 2015.

BY THE COURT:

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