

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 15-cv-00046-GPG

JAMES E. FISHER,

Plaintiff,

v.

CITY AND COUNTY OF DENVER, Street Maintenance,

Defendant.

ORDER OF DISMISSAL

Plaintiff James E. Fisher currently resides in Aurora, Colorado. Plaintiff initiated this action by filing *pro se* a ninety-page Title VII Complaint, ECF No. 1. In an order entered on January 8, 2015, 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 provide a new Application to Proceed in District Court Without Prepaying Fees that clarifies the financial information in Section One of the Application form. Plaintiff also was directed to submit a complete Complaint that included a signature. 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 20, 2015, Plaintiff filed an Application to Proceed Without Prepaying Fees or Costs that somewhat clarifies his financial information, but the Complaint form he submitted contains only two pages of the form. The Complaint is not complete and does not contain Plaintiff's signature or a date. Nonetheless, Magistrate Judge

Gallagher entered a minute order on February 10, 2015, that allowed Plaintiff an additional thirty days to submit a complete and properly dated and signed Complaint form.

On March 10, 2015, Plaintiff filed a request for a sixty-day extension of time for “discovery or information to support [his] case maybe misplaced lose or need the court assistance to retrieve,” because “some of the witness for this case may have transferred, moved out of state and need more time to locate,” and he is a “person with a learning disability.” ECF No. 9 at 2-3. Magistrate Judge Gallagher told Plaintiff that he may not use discovery to state initial allegations in a Complaint and that he has not stated how his disability precludes him from complying with the January 8, 2015 Order. Again, however, Plaintiff was given an extension of time to cure the deficiencies but for only fourteen days. The fourteen days now has run. Plaintiff has not communicated with the court. 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 January 8, 2015 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. It is

FURTHER ORDERED that all pending motions are denied.

DATED at Denver, Colorado, this 31st day of March, 2015.

BY THE COURT:

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