

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 15-cv-00098-GPG

ELMER L. CROSS, JR.,

Plaintiff,

v.

THE NURSE RUFINA (DCJ),  
THE NURSE KIMBERLY (DCJ),  
THE NURSE LOURDES (DCJ),  
THE NURSE SARAH (DCJ),  
UNNAMED MAIL NURSE (DCJ) #1  
ALL NURSES THAT DELIVERED MEDICATION TO PLAINTIFF (May 31, 2014 -  
Present, Dec. 31, 2014) (DCJ),  
THE NURSE JOE (Denver Health Hospital),  
THE NURSE KIM (Denver Health Hospital),  
THE NURSE KATHY (Denver Health Hospital),  
DR. STOB (DCJ), and  
UNNAMED MALE NURSE #2 (DCJ),

Defendants.

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ORDER OF DISMISSAL

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Plaintiff, Elmer J. Cross, Jr., currently resides in Denver, Colorado. When he initiated this action on January 14, 2015 by submitting *pro se* a Prisoner Complaint (ECF No. 1) pursuant to 28 U.S.C. § 1343 and 42 U.S.C. § 1983, he was an inmate detained at the Denver County Jail.

On January 15, 2015, Magistrate Judge Gordon P. Gallagher entered an order directing Mr. Cross to cure certain deficiencies if he wished to pursue his claims in this action. Specifically, Magistrate Judge Gallagher directed Mr. Cross either to pay the filing and administrative fees totaling \$400.00 or to submit on the court-approved form a properly supported Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28

U.S.C. § 1915. Magistrate Judge Gallagher also ordered Mr. Cross to submit a Prisoner Complaint that provided addresses for all named defendants in “Section A. Parties” of the complaint. Mr. Cross was warned that the action would be dismissed without further notice if he failed to cure the deficiencies within thirty days.

Mr. Cross has failed to cure the deficiencies within the time allowed, and he has failed to communicate with the Court in any way since filing the Complaint on January 14, 2015. The Court, therefore, will dismiss the action for failure to cure the deficiencies and failure to prosecute.

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 paupers* status is 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 also pay the full \$505 appellate filing fee or file a motion to proceed *in forma pampers* in 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 cure the deficiencies as directed and for failure to prosecute. It is

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

FURTHER ORDERED that all pending motions are denied as moot.

DATED at Denver, Colorado, this 4<sup>th</sup> day of March, 2015.

BY THE COURT:

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