

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 15-cv-00175-GPG

DAVID STRADLEY,

Plaintiff,

v.

[NO DEFENDANTS NAMED],

Defendants.

ORDER OF DISMISSAL

Plaintiff, David Stradley, is an inmate at the Boulder County Jail in Boulder, Colorado. Mr. Stradley initiated this action by filing *pro se* a letter (ECF No. 1) complaining about the medical care he has received while in custody. The instant action was commenced and, on January 27, 2015, Magistrate Judge Gordon P. Gallagher entered an order directing Mr. Stradley to cure certain deficiencies if he wished to pursue his claims. Specifically, Magistrate Judge Gallagher directed Mr. Stradley 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 and an authorization to calculate and disburse filing fee payments. Mr. Stradley was warned that the action would be dismissed without further notice if he failed to cure these deficiencies within thirty days.

On February 23, 2015, Mr. Stradley filed a letter (ECF No. 6) requesting an extension of time to cure the deficiencies. On February 24, 2015, Magistrate Judge

Gallagher entered a minute order (ECF No. 7) granting Mr. Stradley an extension of time until March 27, 2015, to cure the deficiencies. Magistrate Judge Gallagher also reminded Mr. Stradley that the action would be dismissed without further notice if he failed to cure all of the deficiencies within the time allowed.

On March 4, 2015, Mr. Stradley filed a letter (ECF No. 8) requesting the forms necessary to cure the deficiencies. On March 5, 2015, Magistrate Judge Gallagher entered a minute order (ECF No. 9) granting the request and directing the clerk of the Court to mail to Mr. Stradley blank copies of the necessary forms.

On March 10, 2015, Mr. Stradley filed a letter (ECF No. 11) stating he is having a difficult time obtaining a copy of his trust fund account statement and complaining about his medical treatment. On March 31, 2015, Magistrate Judge Gallagher entered a minute order (ECF No. 12) advising Mr. Stradley that he must cure all of the other deficiencies even if he is unable to obtain a certified copy of his inmate trust fund account statement and granting Mr. Stradley an extension of time until April 20, 2015, to cure the deficiencies. Magistrate Judge Gallagher also reiterated the deficiencies Mr. Stradley must cure and he reminded Mr. Stradley that the action would be dismissed without further notice if he failed to cure all of the deficiencies within the time allowed.

On April 13, 2015, Mr. Stradley filed a letter (ECF No. 13) requesting an extension of time. On April 24, 2015, Magistrate Judge Gallagher entered a minute order (ECF No. 14) granting Mr. Stradley an extension of time until May 5, 2015, to cure the deficiencies. Magistrate Judge Gallagher again reiterated the deficiencies Mr. Stradley must cure and he reminded Mr. Stradley that the action would be dismissed without further notice if he failed to cure all of the deficiencies within the time allowed.

Mr. Stradley 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. Stradley 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 14th day of May, 2015.

BY THE COURT:

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