

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 15-cv-00261-GPG

MICAH BLACKFEATHER,

Plaintiff,

v.

CMHIP,
ROXANNA MARINO,
QUINONES RAYMOND,
NANCY JOHNSON,
FELICIA MORA,
ROSIA SALAZAR,
ABEL LENNART,
ANTHONY GARCIA,
TIFFANY RAY,
VINCENT JAMES GUERRERO,
DEBORA EALEY,
DALE COREY,
DEAN PACE,
RHEA HENRY,
KATHY KIECKHAFFER,
KIM ORTIZ, and
SHANA,

Defendants.

ORDER OF DISMISSAL

Plaintiff, Micah Blackfeather, is a detainee at the Colorado Mental Health Institute at Pueblo, Colorado. Mr. Blackfeather initiated this action by filing *pro se* a Motion for Protection Order (ECF No. 1) complaining that he is being harassed and intimidated. This civil action was commenced and, on February 6, 2015, Magistrate Judge Gordon P. Gallagher entered an order directing Mr. Blackfeather to cure certain deficiencies if

he wished to pursue his claims. Specifically, Magistrate Judge Gallagher directed Mr. Blackfeather to file a Prisoner Complaint and either to pay filing and administrative fees totaling \$400.00 or to file a properly supported Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915. Mr. Blackfeather was warned that the action would be dismissed without further notice if he failed to cure the deficiencies within thirty days.

On February 17, 2015, Mr. Blackfeather tendered to the Court for filing a "Motion to Record Incident of Discrimination and Intimidation (Inciting Drama)" (ECF No. 4) complaining that he continues to be harassed and intimidated. Although Mr. Blackfeather did not include a case number on the "Motion to Record Incident of Discrimination and Intimidation (Inciting Drama)," the motion was filed in this action and appears to relate to the same subject matter as the Motion for Protection Order.

Mr. Blackfeather has not cured any of the deficiencies in this action. He has not filed a Prisoner Complaint and he has failed either to pay filing and administrative fees totaling \$400.00 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.

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 Motion for Protection Order (ECF No. 1) is denied and the action is dismissed without prejudice pursuant to Rule 41(b) of the Federal Rules of Civil Procedure because Mr. Blackfeather 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. It is

FURTHER ORDERED that the “Motion to Record Incident of Discrimination and Intimidation (Inciting Drama)” (ECF No. 4) is denied as moot.

DATED at Denver, Colorado, this 16th day of March, 2015.

BY THE COURT:

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