

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 15-cv-00284-GPG

JOSE M. APODACA,

Plaintiff,

v.

[NO NAMED DEFENDANTS],

Defendant.

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ORDER OF DISMISSAL

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Plaintiff, Jose M. Apodaca, is a prisoner in the custody of the Colorado Department of Corrections at the Colorado State Penitentiary. Mr. Apodaca initiated this action on February 9, 2015, by filing a "Notice of Action" (ECF No. 1).

On February 10, 2015, Magistrate Judge Gordon P. Gallagher reviewed Plaintiff's filing and determined that it was deficient. Magistrate Judge Gallagher directed Plaintiff to submit a Prisoner Complaint and a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 on the court-approved forms, along with a certified copy of his trust fund account statement for the six months preceding his filing, and a signed form authorizing the disbursement of filing fee payments from his inmate trust fund account. (ECF No. 3). Magistrate Judge Gallagher also advised Mr. Apodaca that he could pay the \$400.00 filing and administrative fees in lieu of submitting a properly-supported § 1915 motion and affidavit. (*Id.*). Magistrate Judge Gallagher warned Mr. Apodaca in the February 10 Order that failure to cure the deficiencies would result in dismissal of this action without further notice. (*Id.*).

Mr. Apodaca has now failed to comply with the February 10 Order. Moreover, he has not communicated with the Court since he initiated this action. Accordingly, it is

ORDERED that this action is DISMISSED without prejudice pursuant to Rule 41(b) of the Federal Rules of Civil Procedure for the failure of Plaintiff, Jose M. Apodaca, to comply with the February 10, 2015 Order Directing Plaintiff to Cure Deficiencies and to prosecute. It is

FURTHER ORDERED that leave to proceed *in forma pauperis* on appeal is denied for the purpose of appeal. 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. See *Coppedge v. United States*, 369 U.S. 438 (1962). If Mr. Apodaca files a notice of appeal he must also 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. It is

FURTHER ORDERED that any pending motions are denied as moot.

DATED March 18, 2015, at Denver, Colorado.

BY THE COURT:

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