

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 15-cv-00337-LTB

JAMIE MCMAHAN,

Plaintiff,

v.

[NO NAMED DEFENDANTS],

Defendants.

ORDER OF DISMISSAL

Plaintiff Jamie McMahan currently is held at the ADX facility in Florence Colorado. On February 17, 2015, he submitted to the court a letter (ECF No. 1) he described as a request to help him process his administrative remedies. Because it appeared that Plaintiff intended to initiate a lawsuit asserting claims of due process violations, the instant action was commenced. As part of the court's review pursuant to D.C.COLO.LCivR 8.1(b), the court determined that Mr. McMahan's pleadings were deficient. In an order entered on February 18, 2015, Magistrate Judge Gordon P. Gallagher directed Plaintiff to cure certain deficiencies if he wished to pursue his claims. Specifically, Magistrate Judge Gallagher informed Plaintiff to file a request to proceed *in forma pauperis* pursuant to § 1915 on proper Court-approved forms or pay the requisite filing fee and further ordered him to file a proper Complaint (ECF No. 3). That Order specifically informed Mr. McMahan that the action would be dismissed without further notice if Mr. McMahan failed to cure the deficiencies within thirty days.

On March 3, 2015, Plaintiff submitted another letter wherein he informed the court that he did not intend to file a lawsuit. Instead, he was seeking the assistance

of the Court in changing his security classification and in visiting with his disabled mom before she dies. Plaintiff was reminded that the Court's function is to adjudicate legal claims brought by litigants. As such, the Court afforded Plaintiff additional time to comply with the February 18, 2015 Order or file a notice of dismissal. No further pleadings have been filed in this action.

Plaintiff has failed to cure the deficiencies within the time allowed. Therefore, the action will be dismissed without prejudice for failure to cure the noted deficiencies.

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 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 pauperis* in the Tenth Circuit within thirty days in accordance with Fed. R. App. P. 24. Accordingly, it is

ORDERED that the Complaint and the action are dismissed without prejudice pursuant to Fed. R. Civ. P. 41(b) for failure to cure the deficiencies and for failure to prosecute. It is

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

DATED at Denver, Colorado, this 9th day of April, 2015.

BY THE COURT:

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