

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 15-cv-00385-GPG

KENNETH HOON,

Petitioner,

v.

WARDEN J. OLIVER, F.P.C. Florence,

Respondent.

ORDER OF DISMISSAL

Petitioner, Kenneth Hoon, is a prisoner in the custody of the Federal Bureau of Prisons. Mr. Hoon initiated this action by filing *pro se* a Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241 (ECF No. 1). On February 26, 2015, Magistrate Judge Gordon P. Gallagher entered an order directing Mr. Hoon to cure a deficiency if he wished to pursue his claims. Specifically, Magistrate Judge Gallagher ordered Mr. Hoon to file an amended pleading using the proper form as required by the Local Rules of Practice in the United States District Court for the District of Colorado. Mr. Hoon was warned that the action would be dismissed without further notice if he failed to cure the deficiency within thirty days. On March 6, 2015, Magistrate Judge Gallagher entered a minute order directing the clerk of the court to mail to Mr. Hoon a blank copy of the court-approved form and that form was mailed to Mr. Hoon the same day. (See ECF No. 8.)

Mr. Hoon has failed to cure the deficiency within the time allowed and he has not

filed any papers in this action after being provided the proper pleading form. Therefore, the action will be dismissed without prejudice for failure to cure the deficiency.

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 Petitioner 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 Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241 (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. Hoon failed to cure the deficiency 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 3rd day of April, 2015.

BY THE COURT:

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