

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 15-cv-00960-GPG

MICAH JAMES BLACKFEATHER,

Plaintiff,

v.

McDONALD'S CORPORATION,

Defendant.

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ORDER OF DISMISSAL

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Plaintiff, Micah James Blackfeather, is a detainee at the Colorado Mental Health Institute at Pueblo, Colorado. Mr. Blackfeather initiated this action by filing *pro se* in the United States District Court for the District of Columbia a Complaint (ECF No. 1) and an Application to Proceed in District Court Without Prepaying Fees or Costs (Short Form) (ECF No. 4). The relief Mr. Blackfeather seeks includes damages, an order overturning a ruling in his pending Colorado state court criminal case, and release from custody. The action was transferred to the District of Colorado.

On May 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 on the proper forms a Prisoner Complaint and 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.

Magistrate Judge Gallagher also advised Mr. Blackfeather that any claims he wishes to pursue challenging his custody must be raised in a habeas corpus action against a proper Respondent after exhaustion of state court remedies. Finally, Mr. Blackfeather was warned that the action would be dismissed without further notice if he failed to cure the deficiencies within thirty days.

On May 22, 2015, Mr. Blackfeather filed a motion (ECF No. 6) requesting an extension of time to cure the deficiencies and blank copies of the forms necessary to cure the deficiencies. On May 26, 2015, Magistrate Judge Gallagher entered a minute order (ECF No. 7) granting Mr. Blackfeather an extension of time until July 6, 2015, to cure the deficiencies. Magistrate Judge Gallagher also reiterated the deficiencies Mr. Blackfeather must cure in this action and directed the clerk of the Court to mail to Mr. Blackfeather the forms necessary to cure the deficiencies. Mr. Blackfeather was reminded that the action would be dismissed without further notice if he failed to cure all of the deficiencies within the time allowed.

Mr. Blackfeather has not cured any of the deficiencies in this action. 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 Complaint (ECF No. 1) and the action are 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 Application to Proceed in District Court Without Prepaying Fees or Costs (Short Form) (ECF No. 4) is denied as moot.

DATED at Denver, Colorado, this 14<sup>th</sup> day of July, 2015.

BY THE COURT:

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