

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 15-cv-01260-GPG

FELIX GUZMAN RIVADENEIRA,

Plaintiff,

v.

[NO NAMED DEFENDANTS],

Defendant.

ORDER OF DISMISSAL

On June 12, 2015, Plaintiff, Felix Guzman Rivadeneira, initiated this action by filing a Complaint (ECF No. 1) pursuant to 42 U.S.C. § 1983. As part of the Court's review pursuant to D.C.COLO.LCivR 8.1(b), the Court determined that there were deficiencies in this action. On June 16, 2015, Magistrate Judge Gordon P. Gallagher entered an order directing Plaintiff to cure certain deficiencies if he wished to pursue his claims in this action. Specifically, Magistrate Judge Gallagher directed Plaintiff to file on the proper forms a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 and a Prisoner's Complaint. Plaintiff was warned that the action would be dismissed without further notice if he failed to cure the deficiencies within thirty days.

Plaintiff submitted a Statement of Claim (ECF No. 4) and an Application to Proceed in District Court Without Prepaying Fees or Costs (ECF No. 5) on July 6, 2015. Magistrate Judge Gallagher again determined that the documents were deficient and ordered Plaintiff to cure the deficiencies if he wished to pursue his claims in this action. Specifically, Magistrate Judge Gallagher again directed Plaintiff to file on the proper forms a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 and

a Prisoner's Complaint. Plaintiff was warned the failure to do so within the time allowed would result in dismissal of the action without further notice.

On July 20, 2015, Plaintiff filed a Letter (ECF No. 7) requesting that the Court "provide me with other options to my legal protest for civil rights other than forcing me to pay \$350 dollars in 28 days." On August 6, 2015, Magistrate Judge Gallagher entered a minute order (ECF No. 8) directing the Clerk of the Court to mail Plaintiff copies of the court-approved Prisoner Complaint and Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 forms. Magistrate Judge Gallagher informed Plaintiff that he had thirty days to cure the designated deficiencies and that failure to comply would result in dismissal of the action.

On August 14, 2015, the copy of the August 6 Minute Order that was sent to Plaintiff was returned to the Court as undeliverable with the notation that he "was no longer here, return to sender." (ECF No. 9).

Plaintiff is required to update the Court of his current address where he can be served papers. See D.C.COLO. L Atty R 5(c) (requiring attorneys and unrepresented parties to file their change of contact information no later than five days after the change). Plaintiff has failed to cure the deficiencies within the time allowed, and he has failed to communicate with the Court since he filed his July 20, 2015 Letter. The Court, therefore, will dismiss the action for failure to cure the deficiencies and failure to prosecute.

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 paupers* 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 pampers* in the Tenth Circuit within thirty days in accordance with Fed.

R. App. P. 24. Accordingly, it is

ORDERED that the Complaint and action are **DISMISSED WITHOUT PREJUDICE** pursuant to Fed. R. Civ. P. 41(b) for failure to cure the deficiencies as directed and for failure to prosecute. It is

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

FURTHER ORDERED that the Application to Proceed in District Court Without Prepaying Fees or Costs (ECF No. 5) is **DENIED AS MOOT**.

DATED at Denver, Colorado, this 17th day of September, 2015.

BY THE COURT:

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