

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 15-cv-01421-GPG

DAVID MCKAY,

Plaintiff,

v.

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

ORDER OF DISMISSAL

Plaintiff, David McKay, is a resident of Denver, Colorado. On July 6, 2015, Plaintiff filed *pro se* a “Title VII Complaint against the Social Security Administration” (ECF No. 1) and an “Application to Proceed in District Court Without Prepaying Fees or Costs” (ECF No. 3). On July 14, 2015, the Court found that the submitted documents were deficient and ordered Plaintiff to cure certain designated deficiencies within thirty days. (ECF No. 4). The Court further found that the Complaint was deficient because it did not comply with the pleading requirements of Rule 8 of the Federal Rules of Civil Procedure. For example, the Court explained to Plaintiff that if he was attempting to seek judicial review of a decision denying his claim for social security disability benefits he needed to allege when the Commissioner denied his claim for benefits and the reason his claim was denied. The Court ordered Plaintiff to file an amended complaint that complied with Rule 8 within thirty days of the Order if he wished to pursue his claims. Plaintiff was warned that if he failed to file an amended complaint within the

time allowed, the action would be dismissed without further notice.

Plaintiff has not filed an amended complaint or cured the designated deficiencies. Therefore, the action will be dismissed without prejudice for failure to cure the deficiencies within the time allowed. 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 action is dismissed without prejudice pursuant to Rule 41(b) of the Federal Rules of Civil Procedure because Plaintiff failed to cure the deficiencies and file an amended complaint 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 Prepayment of Fees or Costs (ECF No. 3) is DENIED.

DATED at Denver, Colorado, this 20th day of August, 2015.

BY THE COURT:

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