

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 15-cv-01680-GPG

ALAN DAVID AMIRAULT,

Plaintiff,

v.

NAIL, Sgt.,
BOGLIN, Deputy,
ARMENTROUT, Deputy #04008,
NURSE BRITTANY, #07321,
NURSE RACHEL B., #11301,
NURSE DAYLA, LC 00069,
NURSE AMANDA, LC 00069,
RICHIES, Deputy 07047 (unsure of spelling),
BARRETT, CPL 10733,

Defendants.

ORDER OF DISMISSAL

Plaintiff, Alan David Amirault, initiated this action by filing *pro se* a Complaint (ECF No. 2) and an Application to Proceed in District Court Without Prepayment of Fees or Costs (Short Form) (ECF No. 3). On August 7, 2015, Magistrate Judge Gordon P. Gallagher entered an order directing Mr. Amirault to cure certain deficiencies if he wished to pursue his claims. (ECF No. 5). Specifically, Magistrate Judge Gallagher directed Mr. Amirault to file his Complaint and Application to Proceed in District Court Without Prepayment of Fees or Costs on the proper forms as required by the local rules for the District of Colorado. Mr. Amirault was warned that the action would be dismissed without further notice if he failed to cure these deficiencies within thirty days.

Mr. Amirault has failed to cure the deficiencies within the time allowed and he

has failed to respond in any way to Magistrate Judge Gallagher's August 7, 2015 order. Therefore, the action will be dismissed without prejudice for failure to prosecute and 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. 2) and the action are dismissed without prejudice pursuant to Rule 41(b) of the Federal Rules of Civil Procedure because Mr. Amirault failed to prosecute and 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 Prepayment of Fees or Costs (Short Form) (ECF No. 3) is DENIED as moot.

DATED at Denver, Colorado, this 11th day of September, 2015.

BY THE COURT:

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