

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 15-cv-01711-GPG

HERBERT ISAAC PERKINS,

Plaintiff,

v.

DONALD WILCOX,
JESSICA SEATON,
DAVID ALLRED,
DEBRA PAYNE,
ERIC EARWIN,
FNU RAMSDELL,
FEDERAL BUREAU OF PRISONS, and
PAUL LAIRD,

Defendants.

ORDER OF DISMISSAL

Plaintiff Herbert Isaac Perkins is in the custody of the Federal Bureau of Prisons and currently is incarcerated at the United States Penitentiary at Florence, Colorado. Plaintiff initiated this action by filing *pro se* a Prisoner Complaint and submitting a Letter stating that he intends to file a complaint but wants the Court to "hold" the Complaint he submitted until he has moved. ECF No. 3. In an order entered on August 11, 2015, Magistrate Judge Gordon P. Gallagher told Plaintiff that the Court does not hold documents submitted by a party to be filed at a later date and that if he intends to pursue an action he must cure certain deficiencies.

Specifically, Magistrate Judge Gallagher directed Plaintiff to submit a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 or in the

alternative to pay the \$400 filing fee in full. Plaintiff also was directed to submit a Prisoner Complaint that is signed.

Magistrate Judge Gallagher warned Plaintiff that the action would be dismissed without further notice if he failed to cure the deficiencies within thirty days. The thirty days now has run; and Plaintiff has not communicated with the Court. The Court, therefore, will dismiss the action.

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 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 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 and action are dismissed without prejudice pursuant to Fed. R. Civ. P. 41(b) for failure to comply with the August 11, 2015 Order, within the time allowed, and for failure to prosecute. It is

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

DATED at Denver, Colorado, this 18th day of September, 2015.

BY THE COURT:

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