

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 15-cv-01848-GPG

ROSS ALLEY,

Plaintiff,

v.

JAMES FALK, Warden,  
RICK RAEMISCH, Executive Director, CDOC,  
R. B. WALTER, Case Manager, Limon Correctional Facility,  
UNKNOWN JANE DOE, Nurse, and  
C/O S. HUGHES,

Defendants.

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ORDER OF DISMISSAL

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Plaintiff Ross Alley is in the custody of the Colorado Department of Corrections and currently is incarcerated at the Limon Correctional Facility in Limon, Colorado. He initiated this action by filing *pro se* a Prisoner Complaint and a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915. On August 26, 2015, Magistrate Judge Gordon P. Gallagher entered an order, ECF No. 5, directing Plaintiff to cure certain enumerated deficiencies within thirty days if he wished to pursue any claims in this Court in this action.

The August 26 Order pointed out that Plaintiff failed to submit a current § 1915 Motion and Affidavit and a certified trust fund account statement for the six-month period immediately preceding the initiation of this action.

Plaintiff was directed to obtain, with the assistance of his case manager or the facility's legal assistant, the Court-approved forms for filing a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 and to use this form in curing the designated deficiencies. Plaintiff also was instructed to provide a current certified account statement. The August 26 Order warned Plaintiff that if he failed to cure the designated deficiencies within thirty days the action would be dismissed without further notice.

On September 8, 2015, Plaintiff submitted a proper certified account statement, but he failed to properly complete the Prisoner's Motion and Affidavit. In particular the Motion and Affidavit does not include a signature page, and the Authorization page is not properly completed or signed. Magistrate Judge Gallagher allowed Plaintiff an additional twenty-one days to cure the remaining deficiencies and warned him that if he did not comply within the time allowed the action would be dismissed without further notice.

The time now has run and Plaintiff has failed to comply with the August 26 Order within the time allowed. 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 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 all noted deficiencies. It is

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

DATED at Denver, Colorado, this 15<sup>th</sup> day of October, 2015.

BY THE COURT:

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