

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 15-cv-01853-GPG

WILLIAM L. SCHLINGMAN,

Plaintiff,

v.

[NO NAMED DEFENDANT],

Defendant.

ORDER OF DISMISSAL

Plaintiff, William L. Schlingman, currently detained at the Jefferson County Detention Facility in Golden, Colorado, submitted to the Court *pro se* two documents (ECF Nos. 1 and 2) in which it appeared that he intended to seek some sort of relief in this court. The instant action was commenced and, on September 24, 2015, Magistrate Judge Gordon P. Gallagher entered an order directing Mr. Schlingman to cure certain deficiencies if he wished to pursue his claims. Specifically, Magistrate Judge Gallagher directed Mr. Schlingman to file a Prisoner Complaint on the court-approved form and either to pay filing and administrative fees totaling \$400.00 or to file a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 along with a certified copy of his inmate trust fund account statement and a signed authorization to calculate and disburse filing fee payments. Mr. Schlingman was warned that the action would be dismissed without further notice if he failed to cure these deficiencies within thirty days.

On October 19, 2015, Mr. Schlingman filed two letters (ECF Nos. 5 and 6)

complaining about the conditions of his confinement. On October 28, 2015, Magistrate Judge Gallagher entered a minute order (ECF No. 7) directing the clerk of the Court to mail to Mr. Schlingman two copies of the court-approved forms necessary to cure the deficiencies. Magistrate Judge Gallagher directed Mr. Schlingman to cure the deficiencies within thirty days from the date of the minute order and reminded him that the action would be dismissed without further notice if he failed to cure all of the deficiencies within the time allowed.

Mr. Schlingman has failed to cure any of the deficiencies within the time allowed and has not responded in any way to the October 28 Minute Order. Mr. Schlingman has not filed a Prisoner Complaint and he has failed either to pay the required filing and administrative fees or to file a properly supported Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915. Therefore, the action will be dismissed without prejudice for failure to 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 action is dismissed without prejudice pursuant to Rule 41(b) of the Federal Rules of Civil Procedure because Mr. Schlingman failed to 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.

DATED at Denver, Colorado, this 4th day of December, 2015.

BY THE COURT:

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