

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 15-cv-01878-GPG

JERROD CORNING,

Plaintiff,

v.

CORRECTIONAL CORPORATION OF AMERICA,
DAVID GROSS,
S. MILLER,
E. HOWELL,
DESIREE ANDREWS,
BOBBY BONNER, and
GREG JONES,

Defendants.

ORDER OF DISMISSAL

Plaintiff, Jerrod Corning, is a prisoner at the Kit Carson Correctional Center in Burlington, Colorado. Mr. Corning initiated this action by filing *pro se* a Prisoner Complaint With Jury Demand (ECF No. 1), a Motion to File Without Payment of Filing Fee (ECF No. 3), a Motion and Affidavit in Support for Appointment of Counsel (ECF No. 4), and a letter to the Court (ECF No. 5). This civil action was commenced and, on September 1, 2015, Magistrate Judge Gordon P. Gallagher entered an order directing Mr. Corning to cure certain deficiencies if he wishes to pursue his claims. Specifically, Magistrate Judge Gallagher directed Mr. Corning to file on the proper forms a Prisoner Complaint and a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 and to submit an authorization to calculate and disburse filing fee

payments. Mr. Corning was warned that the action would be dismissed without further notice if he failed to cure the deficiencies within thirty days.

Mr. Corning has failed to cure the deficiencies within the time allowed and he has failed to respond in any way to Magistrate Judge Gallagher's September 1 order. 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 Prisoner Complaint With Jury Demand (ECF No. 1) and the action are dismissed without prejudice pursuant to Rule 41(b) of the Federal Rules of Civil Procedure because Mr. Corning 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. It is

FURTHER ORDERED that the Motion to File Without Payment of Filing Fee (ECF No. 3) and the Motion and Affidavit in Support for Appointment of Counsel (ECF No. 4) are denied as moot.

DATED at Denver, Colorado, this 7th day of October, 2015.

BY THE COURT:

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