

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 15-cv-01954-GPG

TERRY RAND DESJARLAIS JR.,

Petitioner/Plaintiff,

v.

THE PRESIDENT OF THE UNITED STATES, and
THE FEDERAL MARSHALS,

Respondents/Defendants.

ORDER OF DISMISSAL

Mr. Terry Rand Desjarlais Jr. currently resides in Greenwood Village, Colorado. Plaintiff initiated this action by filing *pro se* a Petition, ECF No. 1, and an Application to Proceed in District Court Without Prepaying Fees or Costs, ECF No. 2. On September 14, 2015, Magistrate Judge Gordon P. Gallagher entered an order and directed Plaintiff to cure certain deficiencies in the pleading. Specifically, Magistrate Judge Gallagher instructed Mr. Desjarlais to file his claims on a Court-approved form used in filing a *pro se* complaint in this Court and to submit an Application to Proceed Without Paying Fees or Costs that provides all the requested information.

Magistrate Judge Gallagher warned Mr. Desjarlais that the action would be dismissed without further notice if he failed to cure the deficiencies within thirty days. Rather than cure the deficiencies, Mr. Desjarlais submitted a pleading titled, "Affidavit," ECF No. 5. The Affidavit is unresponsive to the September 14, 2015 Order to Cure.

Because Mr. Desjarlais now has failed to cure the deficiencies noted in the September 14 Order, within the time allowed, the Court will dismiss this action.

The Court 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 Mr. Desjarlais files a notice of appeal he must also pay the full \$505.00 appellate filing fee or file a motion to proceed *in forma pauperis* in 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 Fed. R. Civ. P. 41(b) for failure to cure the deficiencies 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 19th day of October, 2015.

BY THE COURT:

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