

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 15-cv-01959-GPG

JONATHAN DAVID DANIEL SCHMIER,

Plaintiff,

v.

THE CITY OF COLORADO SPRINGS,
MATTEW J. DUNICH, Officer, Badge # 1611, and
CARLOTTE RIVERA, Detective, Badge # 1766D,

Defendants.

ORDER OF DISMISSAL

Plaintiff, Jonathan David Daniel Schmier, resides in Virginia Beach, Virginia. He initiated this action on September 9, 2015, by filing, *pro se*, a Complaint (ECF No. 1).

On October 6, 2015, Magistrate Judge Gordon P. Gallagher reviewed Plaintiff's filing and determined that it was deficient because Mr. Schmier had not paid the \$400.00 filing fee or submitted a Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915. (ECF No. 3). Magistrate Judge Gallagher directed Plaintiff to submit an Application to Proceed in District Court Without Prepaying Fees or Costs (Long Form) on the court-approved forms within thirty (30) days of the October 6 Order. (*Id.*). Magistrate Judge Gallagher advised Mr. Schmier that he could obtain copies of the court-approved forms at www.cod.uscourts.gov. (*Id.*). Finally, Magistrate Judge Gallagher warned Plaintiff that failure to comply would result in dismissal of this action without further notice. (*Id.*).

Mr. Schmier has now failed to comply with the October 6 Order. Further, he has

not communicated with the Court since he initiated this action. Accordingly, it is

ORDERED that this action is DISMISSED without prejudice pursuant to Rule 41(b) of the Federal Rules of Civil Procedure for the failure of Plaintiff, Jonathandavid Daniel Schmier, to comply with the October 7, 2015 Order Directing Plaintiff to Cure Deficiency. It is

FURTHER ORDERED that leave to proceed in forma pauperis on appeal is denied for the purpose of appeal. 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. See *Coppedge v. United States*, 369 U.S. 438 (1962). If Mr. Schmier files a notice of appeal he must also 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.

DATED November 16, 2015, at Denver, Colorado.

BY THE COURT:

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