

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 15-cv-01982-GPG

DOMINIC D. ESPINOZA,

Plaintiff,

v.

CONEJOS COUNTY,  
JOHN SANDOVAL, County Commissioner,  
SUSAN BROYLES, County Judge, and  
THOMAS BRINKLEY, County Assessor's Employee,

Defendants.

---

ORDER OF DISMISSAL

---

Plaintiff, Dominic D. Espinoza, initiated this action by filing *pro se* a Complaint (ECF No. 1) and an Application to Proceed in District Court Without Prepaying Fees or Costs (Long Form) (ECF No. 2). The Court reviewed the documents and determined they were deficient. Therefore, on September 11, 2015, the Court entered an order directing Mr. Espinoza to cure certain enumerated deficiencies in the case within thirty days if he wished to pursue his claims. Specifically, the Court explained that Mr. Espinoza failed to complete all sections of the *in forma pauperis* application and the Complaint. In the September 11 Order to Cure, the Court directed Mr. Espinoza to obtain the Court-approved forms for filing a Complaint and an Application to Proceed in District Court Without Prepaying Fees or Costs and use the forms in curing the deficiencies. The Court also warned Mr. Espinoza that if he failed to cure the

designated deficiencies within thirty days, the action would be dismissed without further notice.

On September 22, 2015, the copy of the September 11 Order to Cure that was mailed to Mr. Espinoza at the address he provided was returned to the Court as undeliverable. The returned envelope (ECF No. 5) bears a stamp or sticker that reads "RETURN TO SENDER, INSUFFICIENT ADDRESS, UNABLE TO FORWARD."

Pursuant to D.C.COLO.LAttyR 5 of the Local Rules of Practice of the United States District Court for the District of Colorado-Attorney, an unrepresented party must file a notice of new address within five days of any change of address. Mr. Espinoza has failed to comply with the Court's local rules and, as a result, he has failed within the time allowed to cure the deficiencies as directed. Therefore, the complaint and the action will be dismissed without prejudice for failure to prosecute and failure to cure deficiencies.

Furthermore, the Court certifies pursuant to § 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 \$505.00 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 Complaint (ECF No. 1) and the action are dismissed without prejudice pursuant to Rule 41(b) of the Federal Rules of Civil Procedure because

Plaintiff, Dominic D. Espinoza, failed to prosecute and cure deficiencies within the time allowed. 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 Application to Proceed in District Court Without Prepaying Fees or Costs (ECF NO. 2) is denied as moot.

DATED at Denver, Colorado, this 16<sup>th</sup> day of October, 2015.

BY THE COURT:

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