

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 15-cv-02006-GPG

TRAVIS BROWN,

Applicant,

v.

BENT COUNTY CORRECTIONAL FACILITY,

Respondent.

ORDER OF DISMISSAL

Applicant is in the custody of the Colorado Department of Corrections and currently is incarcerated at the Bent County Correctional Facility in Las Animas, Colorado. Applicant initiated this action by filing *pro se* an Application Under 28 U.S.C. § 2241 for Writ of Habeas Corpus by a Person in State or Federal Custody and paying the \$5 filing fee.

In an order entered on September 15, 2015, Magistrate Judge Gordon P. Gallagher told Applicant that if he intends to pursue an action he must cure certain deficiencies. Specifically, Magistrate Judge Gallagher directed Applicant to file his claims on a Court-approved form used in filing a 28 U.S.C. § 2241 application and to provide all the requested information in the proper Court-approved form. Magistrate Judge Gallagher warned Applicant that the action would be dismissed without further notice if he failed to cure the deficiencies within thirty days.

On October 13, 2015, Applicant filed his claims on a form titled, "Petition Under 28 U.S.C. 2254 for Writ of Habeas Corpus by a Person in State Custody," ECF No. 4. The

form is not an approved form used by this Court; and even if the Court accepted the form Applicant failed to provide all the requested information on the form.

Magistrate Judge Gallagher entered a Minute Order on October 14, 2015, that allowed Applicant an additional thirty days to comply with the September 15 Order. Applicant was told that if he failed to comply the action would be dismissed without further notice. The thirty-day extension now has run; and Applicant has failed to comply with the September 15, 2015 Order within the time allowed. The Court, therefore, will dismiss the action.

The Court also 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 will be denied for the purpose of appeal. See *Coppedge v. United States*, 369 U.S. 438 (1962). If Applicant files a notice of appeal he 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 Application is denied and the action is dismissed without prejudice pursuant to Fed. R. Civ. P. 41(b) for failure to comply with the September 15, 2015 Order, within the time allowed, 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 20th day of November, 2015.

BY THE COURT:

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