

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 15-cv-02048-GPG

JEFFERSON WADE OWINGS,

Applicant,

v.

THE PEOPLE OF THE STATE OF COLORADO,

Respondent.

ORDER OF DISMISSAL

Applicant, Jefferson Wade Owings, is a prisoner in the custody of the Colorado Department of Corrections. Mr. Owings initiated this action by filing *pro se* a document titled "Affidavit of Memorandum of Record as to Incomplete Court Record Designation on Appeal and Notice With Request in the U.S. District Court" (ECF No. 1). Although it was not clear what type of action Mr. Owings intended to pursue or what claims he was asserting, the instant action was commenced. On September 17, 2015, Magistrate Judge Gordon P. Gallagher entered an order directing Mr. Owings to cure certain deficiencies if he wished to pursue any claims in this action. In particular, Magistrate Judge Gallagher ordered Mr. Owings to file a pleading on the proper form and either to pay the filing fee or to file a properly supported motion to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915. Mr. Owings was warned that the action would be dismissed without further notice if he failed to cure the deficiencies within thirty days.

Mr. Owings has failed to cure the deficiencies within the time allowed and he has failed to respond to Magistrate Judge Gallagher's September 17 order in any way.

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 Applicant 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

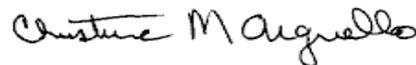
ORDERED that the action is dismissed without prejudice pursuant to Rule 41(b) of the Federal Rules of Civil Procedure because Mr. Owings failed to cure the deficiencies as directed. It is

FURTHER ORDERED that no certificate of appealability will issue because Applicant has not made a substantial showing of the denial of a constitutional right. 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.

DATED at Denver, Colorado, this 26th day of October, 2015.

BY THE COURT:



CHRISTINE M. ARGUELLO
United States District Judge, for
LEWIS T. BABCOCK, Senior Judge
United States District Court