

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 15-cv-02096-GPG

SHONTRELL D. McBRIDE,

Plaintiff,

v.

[NO NAMED DEFENDANTS],

Defendants.

ORDER OF DISMISSAL

Plaintiff Shontrell D. McBride is in the custody of the Federal Bureau of Prisons and currently is incarcerated at the United States Penitentiary in Florence, Colorado. Plaintiff initiated this action by submitting *pro se* a Letter, ECF No. 1, to the Court asserting conditions of confinement claims. In an order entered on September 24, 2015, Magistrate Judge Gordon P. Gallagher told Plaintiff that if he intends to pursue an action he must cure certain deficiencies. Specifically, Magistrate Judge Gallagher directed Plaintiff to file his claims on a proper Court-approved form (Prisoner Complaint form) that is used when a prisoner challenges the conditions of his confinement and to submit a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915, or in the alternative to pay the \$400 filing fee. Magistrate Judge Gallagher warned Plaintiff that the action would be dismissed without further notice if he failed to cure the deficiencies within thirty days.

On October 8, 2015, Plaintiff filed a Letter and requested a clarification of the September 24 Order. In response to the Letter, Magistrate Judge Gallagher entered a Minute Order that clearly instructs Plaintiff what he is required to do to cure the

deficiencies noted in the September 24 Order. Magistrate Judge Gallagher also denied Plaintiff's request for an appointment of counsel because counsel is not required to assist Plaintiff in curing the noted deficiencies. Also, Magistrate Judge Gallagher allowed Plaintiff an additional thirty days to cure the deficiencies. The thirty days now have run. Plaintiff has not communicated with the court. 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 Plaintiff 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 Complaint and action are dismissed without prejudice pursuant to Fed. R. Civ. P. 41(b) for failure to comply with the September 24, 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 3rd day of November, 2015.

BY THE COURT:

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