

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 15-cv-02427-GPG

DOUGLAS A. GLASER,

Applicant,

v.

TRAVIS TRANI, and
CYNTHIA A. COFFMAN, Attorney General of the State of Colorado,

Respondents.

ORDER OF DISMISSAL

Applicant, Douglas A. Glaser, is a prisoner in the custody of the Colorado Department of Corrections. Mr. Glaser initiated this action by filing *pro se* a letter (ECF No. 1) alleging he is innocent and seeking habeas corpus relief. The instant action was commenced and, on November 3, 2015, Magistrate Judge Gordon P. Gallagher entered an order directing Mr. Glaser to cure certain deficiencies if he wishes to pursue his claims. In particular, Magistrate Judge Gallagher ordered Mr. Glaser to file an application for a writ of habeas corpus on the proper form and either to pay the \$5.00 filing fee or to file a properly supported motion to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915. Mr. Glaser was warned that the action would be dismissed without further notice if he failed to cure the deficiencies within thirty days.

On November 23, 2015, Mr. Glaser filed a Petition Under 28 U.S.C. § 2254 for Writ of Habeas Corpus by a Person in State Custody (ECF No. 4). On December 9, 2015,

Magistrate Judge Gallagher entered a minute order advising Mr. Glaser that he had failed to cure the deficiencies as directed because the pleading filed on November 23 was not on the proper form and he had failed either to pay the \$5.00 filing fee or to file a properly supported motion to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915. Mr. Glaser was given another opportunity to cure the deficiencies and he was warned that the action would be dismissed without further notice if he failed to cure all of the deficiencies within the time allowed.

On December 23, 2015, Mr. Glaser filed on the proper form an Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254 (ECF No. 6). However, he has failed to cure all of the deficiencies within the time allowed because he has failed either to pay the \$5.00 filing fee or to file a properly supported motion to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915. Therefore, the action will be dismissed without prejudice for failure to cure all of 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 Petition Under 28 U.S.C. § 2254 for Writ of Habeas Corpus by a Person in State Custody (ECF No. 4) and the Application for a Writ of Habeas Corpus

Pursuant to 28 U.S.C. § 2254 (ECF No. 6) are denied and the action is dismissed without prejudice pursuant to Rule 41(b) of the Federal Rules of Civil Procedure because Mr. Glaser failed to cure all of 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 14th day of January, 2016.

BY THE COURT:

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