

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO**

Civil Action No. 15-cv-02443-GPG

ENRIQUE VILLALOBOS,

Plaintiff,

v.

DDC-DCJ,

Defendant.

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**ORDER OF DISMISSAL**

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Plaintiff, Enrique Villalobos, is a prisoner in the custody of the Denver County Jail. On November 4, 2015, he filed *pro se* a Prisoner Complaint (ECF No. 1) and a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 (ECF No. 3). On the same day, he also filed an Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254 (see 15-cv-2445) and an Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241 (see 15-cv-2444).

On November 5, 2015, this Court reviewed Plaintiff's submitted documents in this case pursuant to D.C.COLO.LCivR 8.1(a) and (b), and determined that they were deficient. The Court ordered Plaintiff to cure certain designated deficiencies within thirty days if he wished to pursue his claims in this action. (ECF No. 4). Specifically, the Court ordered Plaintiff to submit a certified copy of his prisoner's trust fund statement or, in the alternative, to pay the \$400.00 filing fee. (*Id.*) The Court notified Plaintiff that if he

failed to cure the designated deficiencies within the time allowed, the action would be dismissed without further notice.

In this case, no further pleadings have been filed by Plaintiff to date. Plaintiff has failed to cure the deficiencies within the time allowed. Therefore, the action will be dismissed without prejudice for failure to cure the deficiencies and failure to prosecute.

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 is 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 also pay the full \$505 appellate filing fee or file a motion to proceed *in forma pauperis* in the Tenth Circuit within thirty days in accordance with Fed. R. App. P. 24. Accordingly, it is

**ORDERED** that the Prisoner Complaint (ECF No. 1) and this action are dismissed without prejudice pursuant to Fed. R. Civ. P. 41(b) for failure to cure the deficiencies and for failure to prosecute. It is

**FURTHER ORDERED** that the Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 (ECF No. 3) is DENIED as moot. It is

**FURTHER ORDERED** that leave to proceed *in forma pauperis* on appeal is denied.

DATED at Denver, Colorado, this 14<sup>th</sup> day of December, 2015.

BY THE COURT:

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