

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

Civil Action No. 15-2463-LTB

STEPHEN JOHN NALTY,

Plaintiff,

v.

**ALFRED CONWAY HARRELL, JR., Judge;
MITCHELL RICHARD MORRISSEY;
KATHERINE VIRGINIA KIRK;
PATRICK FIRMAN; and
CITY AND COUNTY OF DENVER,**

Defendants.

ORDER OF DISMISSAL

Plaintiff, Stephen John Nalty, submitted to the court “A United States First Amendment Affidavit Petition for Redress of Grievances” (ECF No. 1) and paid a filing fee of \$46.00. Therefore, this action was commenced. As part of the court’s review pursuant to D.C.COLO.LCivR 8.1(b), the court determined that the document was deficient as described in its Order to Cure dated November 9, 2015. Specifically, the Order directed Plaintiff to file either a proper complaint or an Application for a Writ of Habeas Corpus on the proper court-approved forms if he wished to pursue his claims (ECF No. 2). The Court further directed the Clerk of Court to return the \$46.00 filing fee and directed Plaintiff to pay the appropriate fee depending on the particular action he sought to bring. That Order specifically informed Plaintiff that the action would be dismissed without further notice if he failed to cure the deficiencies within thirty days.

Plaintiff has failed to cure the deficiencies within the time allowed and has not

filed anything since filing the initial papers in this action. Therefore, the action will be dismissed without prejudice for failure to cure the noted deficiencies and for failure to follow this Court's November 9 Order. See *U.S. ex rel. Jimenez v. Health Net, Inc.*, 400 F.3d 853, 855 (10th Cir. 2005) ("dismissal is an appropriate disposition against a party who disregards court orders and fails to proceed as required by court rules.") (citing *Nat'l Hockey League v. Metro. Hockey Club, Inc.*, 427 U.S. 639, 642–43 (1976)).

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 action is dismissed without prejudice pursuant to Fed. R. Civ. P. 41(b) for failure to cure the deficiencies, for failure to prosecute and for failure to follow court orders. It is

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

DATED at Denver, Colorado, this 21st day of December, 2015.

BY THE COURT:

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