

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 15-cv-02758-GPG

HECTOR OMAR ZAMBRANO,

Applicant,

v.

LOU ARCHULETA, and  
THE ATTORNEY GENERAL OF THE STATE OF COLORADO,

Respondents.

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ORDER OF DISMISSAL

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Applicant, Hector Omar Zambrano, is a prisoner in the custody of the Colorado Department of Corrections. Mr. Zambrano initiated this action by filing *pro se* an Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254 (ECF No. 1) and a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 in a Habeas Corpus Action (ECF No. 3). On December 18, 2015, Magistrate Judge Gordon P. Gallagher entered an order directing Mr. Zambrano to cure certain deficiencies if he wishes to pursue his claims. Most importantly, Magistrate Judge Gallagher ordered Mr. Zambrano to submit a certificate showing the balance in his inmate account. Mr. Zambrano was warned that the action would be dismissed without further notice if he failed to cure the deficiencies within thirty days.

Mr. Zambrano has failed to cure the deficiencies within the time allowed and he has failed to respond to Magistrate Judge Gallagher's December 18 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. Zambrano 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 28<sup>th</sup> day of January, 2016.

BY THE COURT:

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