

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 16-cv-00027-GPG

RONALD M. COX,

Applicant,

v.

COLORADO DEPARTMENT OF ADULT PAROLE DIVISION,

Respondent.

ORDER OF DISMISSAL

Applicant is in the custody of the Colorado Department of Corrections and currently is incarcerated at the Arkansas Valley Correctional Facility in Ordway, Colorado. Applicant initiated this action by filing *pro se* a pleading titled, "Motion to Retain Nun-Pro Tunc Time," ECF No. 1.

In an order entered on January 7, 2016, Magistrate Judge Gordon P. Gallagher told Applicant that if he intends to pursue an action he must cure certain deficiencies. Specifically, Magistrate Judge Gallagher directed Applicant to file his claims on a Court-approved form used in filing a 28 U.S.C. § 2241 application and either to submit a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 in a Habeas Action or in the alternative to pay the \$5 filing fee. Magistrate Judge Gallagher warned Applicant that the action would be dismissed without further notice if he failed to cure the deficiencies within thirty days.

The thirty-days now has run; and Applicant has failed to comply with the January 7, 2016 Order within the time allowed. 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 Applicant 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 Application is denied and the action is dismissed without prejudice pursuant to Fed. R. Civ. P. 41(b) for failure to comply with the January 7, 2016 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 23rd day of February, 2016.

BY THE COURT:

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