

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 16-cv-00080-GPG

CERISE JONES-HUGHES,

Plaintiff,

v.

DENVER COURT, CITY AND COUNTY,
PEOPLE OF THE STATE OF COLORADO,
ALICE NORMAN,
ALEX FLOOD,
LINDSAY VITAUS,
JUDGE EDDIE ANDREA,
JUDGE FARAGHER BETH, and
ASHELY BECK,

Defendants.

ORDER OF DISMISSAL

Plaintiff Cerise Jones-Hughes was incarcerated at the Denver County Jail when he initiated this action by filing a Prisoner Complaint and a Prisoner's Motion and Affidavit for Leave to Proceed on Appeal Pursuant to 28 U.S.C. § 1915 and Fed. R. App. P. 24. In an order entered on January 14, 2016, Magistrate Judge Gordon P. Gallagher told Plaintiff that if he intends to pursue an action he must cure certain deficiencies. Specifically, Magistrate Judge Gallagher directed Plaintiff to submit his request to proceed pursuant to 28 U.S.C. § 1915 on a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 form and to provide a certified trust fund account statement for the most recent six months and an authorization to calculate and disburse funds from his inmate

account. Plaintiff was instructed that the § 1915 Motion he had submitted is used to file an appeal to the Tenth Circuit and is not the proper form used in this Court to request leave to proceed pursuant to § 1915 when initiating an action. Magistrate Judge Gallagher also warned Plaintiff that the action would be dismissed without further notice if he failed to cure the deficiencies within thirty days.

On January 25, 2016, Plaintiff filed the same incorrect § 1915 Motion as he filed when he initiated the action. Magistrate Judge Gallagher entered a minute order on January 26, 2016, that informed Plaintiff he had again filed an improper § 1915 Motion and directed the Clerk of the Court to send to Plaintiff a proper § 1915 form for him to complete and return. Plaintiff was given thirty days to comply and cure the deficiencies.

The envelope containing the January 26, 2016 Minute Order that was sent to Plaintiff was returned to the Court on February 9, 2016, and marked, "Released." In accordance with the Local Rules of Practice for the United States District Court for the District of Colorado, D.C.COLO.LCivR 5.1(c), Plaintiff is required to notify the Court of an address change within five days after the change. Plaintiff has failed to comply with the Court's Local Rules. Plaintiff also has now failed to communicate with the Court, and as a result he has failed to cure the deficiencies 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 Plaintiff 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 Complaint and action are dismissed without prejudice pursuant to Fed. R. Civ. P. 41(b) for failure to comply with the January 14, 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. It is

FURTHER ORDERED that all pending motions are denied as moot.

DATED at Denver, Colorado, this 26th day of February, 2016.

BY THE COURT:

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