

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 16-cv-00084-GPG

TRISTIAN SMITH,

Plaintiff,

v.

IRS,

Defendant.

ORDER OF DISMISSAL

On January 13, 2016, Plaintiff Tristian Smith initiated this action by filing *pro se* a Complaint and an Application to Proceed in District Court Without Prepaying Fees or Costs. On January 15, 2016, Magistrate Judge Gordon P. Gallagher directed Plaintiff either (i) to submit an amended Application to Proceed Without Prepaying Fees or Costs that specifically provides the information requested, *i.e.*, income and assets and Plaintiff's current address if Plaintiff was not a prisoner; or (ii) to submit a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 along with a certified prisoner's trust fund statement for the six-month period immediately preceding the filing of this action if Plaintiff was a prisoner. (See ECF No. 4, at 2). Plaintiff was warned that the action would be dismissed without further notice if he failed to cure the deficiencies within thirty days.

Plaintiff now has 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 without prejudice.

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 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 the Application to Proceed in District Court Without Prepaying Fees or Costs, ECF No. 2, is denied as moot.

DATED at Denver, Colorado, this 29th day of February, 2016.

BY THE COURT:

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