

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 16-cv-00140-GPG

BOBBY E. BURTON, JR.,

Applicant,

v.

RICHARDSON, Warden,

Respondent.

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ORDER OF DISMISSAL

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Applicant currently is held at the Coffield Prison Unit in Tennessee Colony, Texas. Applicant initiated this action by filing *pro se* an Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254 and a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 in a Habeas Corpus Action.

In an order entered on January 21, 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 sign the Application and the Motion and Affidavit and to complete all sections of the Application form. Applicant was further directed to provide a certified account statement showing the current balance in his inmate account. 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 21, 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 21, 2016 Order, within the time allowed, and for failure to prosecute. It is

FURTHER ORDERED that no certificate of appealability shall issue because Applicant has failed to show that jurists of reason would find it debatable that the district court was correct in its procedural ruling. See *Slack v. McDaniel*, 529 U.S. 473, 484-85 (2000).

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 7<sup>th</sup> day of March, 2016.

BY THE COURT:

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