

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 16-cv-00191-GPG

JUAN BRISENO,

Applicant,

v.

THERESA COZZA-RHODES,

Respondent.

ORDER OF DISMISSAL

Applicant, Juan Briseno, is a prisoner in the custody of the Federal Bureau of Prisons at a federal prison in Florence, Colorado. Mr. Briseno initiated this action by filing *pro se* an Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241 (ECF No. 1) challenging a prison disciplinary conviction. On February 11, 2016, Magistrate Judge Gordon P. Gallagher ordered Mr. Briseno to file an amended application that clarifies the claim or claims he is asserting because he failed to allege specific facts that demonstrate his rights were violated. Magistrate Judge Gallagher warned Mr. Briseno that the action would be dismissed without further notice if he failed to file an amended application within thirty days.

Mr. Briseno has not filed an amended application within the time allowed and he has failed to respond in any way to Magistrate Judge Gallagher's February 11 order. Therefore, the action will be dismissed without prejudice for failure to prosecute and file an amended application as directed. 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 habeas corpus application (ECF No. 1) is denied and the action is dismissed without prejudice pursuant to Rule 41(b) of the Federal Rules of Civil Procedure because Applicant failed to prosecute and file an amended application as directed. 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 21st day of March, 2016.

BY THE COURT:

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