

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 16-cv-00240-GPG

MICHAEL D. REA, II,

Plaintiff,

v.

[NO DEFENDANTS NAMED],

Defendants.

ORDER OF DISMISSAL

Plaintiff, Michael D. Rea, II, is a prisoner in the custody of the Colorado Department of Corrections. Mr. Rea initiated this action by submitting to the Court *pro se* a letter (ECF No. 1) with attached exhibits that he asked to be filed as a new action. The instant action was commenced and, on February 1, 2016, Magistrate Judge Gordon P. Gallagher entered an order directing Mr. Rea to cure certain deficiencies if he wishes to pursue his claims. Specifically, Magistrate Judge Gallagher directed Mr. Rea to file a Prisoner Complaint and either to pay filing and administrative fees totaling \$400.00 or to file a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 along with a certified copy of his inmate trust fund account statement and a signed authorization to calculate and disburse filing fee payments. Mr. Rea was warned that the action would be dismissed without further notice if he failed to cure these deficiencies within thirty days. The following day, February 2, 2016, the Court received from Mr. Rea another letter (ECF No. 4) asking the Court not to docket the new case because it was not

complete.

Mr. Rea has failed to cure the deficiencies within the time allowed. Therefore, the action will be dismissed without prejudice for failure to prosecute and cure the deficiencies. 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 Plaintiff 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 action is dismissed without prejudice pursuant to Rule 41(b) of the Federal Rules of Civil Procedure because Mr. Rea failed to prosecute and cure the deficiencies 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 8th day of March, 2016.

BY THE COURT:

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