

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 16-cv-00242-GPG

JOSE RICARDO SARABIA-MARTINEZ,

Plaintiff,

v.

1st ATTORNEY GENERAL ROBERT SHAPIRO, and
DENVER DISTRICT ATTORNEY LARA MULLINS,

Defendants.

ORDER OF DISMISSAL

Plaintiff is currently detained at the Denver County Jail in Denver, Colorado. On February 1, 2016, Plaintiff initiated this action by submitting to the Court a Prisoner Complaint and a Prisoner's Motion and Affidavit to Proceed Pursuant to 28 U.S.C. § 1915. Magistrate Judge Gordon P. Gallagher reviewed the filings pursuant to D.C.COLO.LCivR 8.1(b), determined that the documents were deficient, and directed Plaintiff to cure certain items if he desired to pursue his claims in this Court in this action. Specifically, Magistrate Judge Gallagher directed Plaintiff to complete all sections of the Prisoner Complaint form and to submit a trust fund statement that covers the whole six-month period immediately preceding the filing of this action.

In response to the February 1, 2016 Order to Cure Deficiencies, Plaintiff submitted an account statement and a completed last page of the Prisoner Complaint form. Based on the information Plaintiff provided in the Request for Relief section of the last page of the form, however, Magistrate Judge Gallagher determined that Plaintiff is challenging his

detainment and excessive bail. Because Plaintiff may not raise a request in a 42 U.S.C. § 1983 action, and he is attacking his pretrial detention, Magistrate Judge Gallagher directed Plaintiff to file his claims on a Court-approved form used in filing 28 U.S.C. § 2241 actions. Plaintiff was instructed that if he failed to cure the designated deficiencies within thirty days the action would be dismissed without further notice. Plaintiff now has failed to comply with the March 18, 2016 Order to Cure within the time allowed. The Court, therefore, will dismiss the Complaint and 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 action is dismissed without prejudice pursuant to Fed. R. Civ. P. 41(b) for failure to comply with the March 18, 2016 Order. 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 27th day of April, 2016.

BY THE COURT:

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