

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 16-cv-00333-GPG

JUAN BRISENO,

Applicant,

v.

T. K. 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). On February 16, 2016, Magistrate Judge Gordon P. Gallagher entered an order directing Mr. Briseno to cure certain deficiencies if he wishes to pursue his claims. In particular, Magistrate Judge Gallagher ordered Mr. Briseno either to pay the \$5.00 filing fee for a habeas corpus action or to file a properly supported motion to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915. Mr. Briseno was warned that the action would be dismissed without further notice if he failed to cure the deficiencies within thirty days.

Mr. Briseno has failed to cure the deficiencies within the time allowed and he has failed to respond to Magistrate Judge Gallagher's February 16 order in any way. Therefore, the action will be dismissed without prejudice for failure to 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 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 is denied and the action is dismissed without prejudice pursuant to Rule 41(b) of the Federal Rules of Civil Procedure because Mr. Briseno failed to 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 23rd day of March, 2016.

BY THE COURT:

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