

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 16-cv-00380-GPG

ROBERT JAMES TRUBY,

Applicant,

v.

DEBORAH DENHAM, Warden,

Respondent.

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ORDER OF DISMISSAL

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Applicant Robert James Truby is in the custody of the Federal Bureau of Prisons and currently is incarcerated at the Englewood Federal Correctional Institution in Littleton, Colorado. Applicant initiated this action by filing *pro se* an Applicant for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241.

On February 17, 2016, Magistrate Judge Gordon P. Gallagher entered an order and directed Applicant to cure certain deficiencies if he desired to proceed with an action. Specifically, Magistrate Judge Gallagher directed Applicant to assert his claims on the § 2241 Application form and either to submit a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 in a Habeas Corpus Action or in the alternative to pay the \$5 filing fee. Magistrate Judge Gallagher warned Applicant that the action would be dismissed without further notice if he failed to cure the deficiencies within thirty days.

Applicant submitted an Amended Application but he failed to assert his claims as directed on the Application form. Applicant also failed to submit a Prisoner's Motion and

Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 in a Habeas Corpus Action or in the alternative to pay the \$5 filing fee.

Because Applicant now has failed to cure the deficiencies noted in the February 17, 2016 Order, within the time allowed, the Court will dismiss this action.

The Court 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 is 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 also pay the full \$505.00 appellate filing fee or file a motion to proceed *in forma pauperis* in 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 cure the deficiencies and for failure to prosecute. It is

FURTHER ORDERED that leave to proceed *in forma pauperis* on appeal is denied.

DATED at Denver, Colorado, this 28<sup>th</sup> day of March, 2016.

BY THE COURT:

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