

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 16-cv-00542-LTB

STEVEN CHOI,

Applicant,

v.

LOU ARCHULETA, Warden,

Respondent.

ORDER OF DISMISSAL

Applicant Steven Choi is a prisoner in the custody of the Colorado Department of Corrections. He 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). He paid the required filing fee. (ECF No. 5).

As part of the Court's review pursuant to D.C.COLO.LCivR 8.1(b), the Court determined that the submitted Application was deficient. (ECF No. 6). On March 14, 2016, the Court entered an Order Directing Applicant to File Amended Application. (*Id.*). Specifically, the Court instructed Mr. Choi to submit an amended application within thirty days of the date of the Order, because the initial application failed to allege a violation of federal constitutional rights or facts that demonstrate entitlement to habeas corpus relief. (*Id.*). The Court directed Mr. Choi that, if he intended to assert a constitutional due

process claim, he must allege facts that demonstrate he was deprived of a constitutionally protected liberty interest without adequate due process. (*Id.*). The Court warned Mr. Choi that if he failed to file a compliant amended application within the time provided, the action would be dismissed without further notice. (*Id.*).

The time for compliance with the Order Directing Applicant to File Amended Application has now run, without response from Applicant. Mr. Choi has failed to comply with the Order within the time allowed and has not requested additional time to do so. He has not alleged a violation of any federal constitutional right or facts that demonstrate entitlement to habeas corpus relief.

Therefore, the action will be dismissed without prejudice for failure to prosecute and comply with the Court's Order. 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 Mr. Choi 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 this action is dismissed without prejudice pursuant to Rule 41(b) of the Federal Rules of Civil Procedure because Mr. Choi failed to prosecute and comply with the Court's Order. It is

FURTHER ORDERED that no certificate of appealability will issue because Mr. Choi has not made a substantial showing of the denial of a constitutional right. 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 26th day of April, 2016.

BY THE COURT:

s/Lewis T. Babcock
LEWIS T. BABCOCK
U.S. Senior District Judge