

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

MARC ERIC SCHWENK,

Plaintiff,

v.

No. 1:22-cv-00846-KWR-GBW

CIBOLA COUNTY
CORRECTIONAL CENTER, *et al*,

Defendants.

ORDER OF DISMISSAL

THIS MATTER is before the Court following Plaintiff's failure to cure deficiencies in connection with his Civil Rights Complaint (Doc. 1) (Complaint). Plaintiff is incarcerated and proceeding *pro se*. He filed a Motion to Proceed *In Forma Pauperis* along with his Complaint, but he did not submit a six-month inmate account statement. *See* Doc. 2. Such statement is required by statute. Section 1915 of Title 28 requires inmates who wish to proceed *in forma pauperis* to submit a "certified copy of the trust fund account statement ... for the 6-month period immediately preceding the filing of the complaint." 28 U.S.C. § 1915(a). By an Order entered November 30, 2022, the Court directed Plaintiff to file his account statement within thirty days. *See* Doc. 3. The Order warned that if Plaintiff fails to timely comply, this case may be dismissed without further notice.

The cure deadline was December 30, 2022. Plaintiff did not comply, show cause for such failure, or otherwise respond to the Order. Accordingly, the Court will dismiss the Complaint pursuant to Fed. R. Civ. P. 41(b) for "failure to prosecute [and] comply with the ... court's orders." *Olsen v. Mapes*, 333 F.3d 1199, 1204 n. 3 (10th Cir. 2003). The Court will also deny as moot the

pending Motion to Proceed *In Forma Pauperis* (Doc. 2).

IT IS ORDERED that Plaintiff's Civil Rights Complaint (**Doc. 1**) is **DISMISSED WITHOUT PREJUDICE** pursuant to Fed. R. Civ. P. 41(b); his Motion to Proceed *In Forma Pauperis* (**Doc. 2**) is **DENIED AS MOOT**; and the Court will enter a separate Judgment disposing of this civil case.

IT IS SO ORDERED.



KEA W. RIGGS
UNITED STATES DISTRICT JUDGE