

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 20-cv-01141-GPG

ANDREW J. O'CONNOR,

Plaintiff,

v.

ANDREA MERIDA,
DAVE BELL,
SIERRA GARCIA,
R.J. TOBIN,
COLORADO GREEN PARTY, individually and severally,

Defendants.

ORDER OF DISMISSAL

Plaintiff Andrew J. O'Connor is a resident of Lafayette Colorado. On April 23, 2020, he filed *pro se* a "Complaint for Damages and Motion for Declaratory and Injunctive Relief." (ECF No. 1).

On April 27, 2020, the Court ordered Plaintiff to cure certain designated deficiencies if he wished to pursue his claims. (ECF No. 3). Specifically, Plaintiff was ordered to either pay the \$400.00 filing fee or file an *in forma pauperis* motion on the current court-approved form. Additionally, the Court directed Plaintiff to submit his complaint on the current court-approved Complaint form. Plaintiff was warned that the action would be dismissed without further notice if he failed to cure the deficiencies as directed within thirty days.

In response, on May 4, 2020, Plaintiff filed an “Amended Pro Se Plaintiff’s Motion to Disqualify Magistrate Judge Gallagher Pursuant to 28 § 455 U.S.C.” (ECF No. 7), which was denied on May 6, 2020 (ECF No. 8).

On May 26, 2020, Plaintiff submitted his Complaint on the court-approved form. (ECF No. 9). On May 27, 2020, he submitted a duplicate copy of the May 26 Complaint. (ECF No. 14). He also submitted two duplicate “Second Motion[s] to Disqualify Magistrate Judge Gallagher Pursuant to 28 § 455 U.S.C. and 28 § 144 U.S.C.” (ECF Nos. 10 & 12) and two duplicate “Affidavit[s] Pursuant to 18 § 144 U.S.C.” (ECF Nos. 11 & 13).

However, Plaintiff has not paid the filing fee and he has not submitted a motion to proceed *in forma pauperis*. Therefore, Plaintiff has failed to cure the deficiencies as directed in the Court’s April 27, 2020 Order. As a result, the action will be dismissed without prejudice for failure to cure the deficiencies as directed. The “Second Motion[s] to Disqualify Magistrate Judge Gallagher Pursuant to 28 § 455 U.S.C. 144 U.S.C. and 28 § 144 U.S.C.” (ECF Nos. 10 & 12) will be denied as moot. Although those motions are denied as moot, the Court warns Plaintiff that the abusive and offensive language contained in the motions and affidavits serve no legitimate purpose and will not be tolerated. A federal court is not a bully pulpit. See *Wojdacz v. Norman*, No. 12-cv-01483-REB-MEH, 2014 WL 4980401, at *1 n.3 (D. Colo. Oct. 6, 2014). Any future filings that contain abusive or offensive language without any legitimate purpose will be immediately stricken. See *Garrett v. Selby Connor Maddux & Janer*, 425 F.3d 836, 841 (10th Cir. 2005) (noting the inherent authority of the Court to strike such pleadings).

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 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 Amended Complaint and this action are dismissed without prejudice for failure 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. It is

FURTHER ORDERED that the “Second Motion[s] to Disqualify Magistrate Judge Gallagher Pursuant to 28 § 455 U.S.C. 144 U.S.C. and 28 § 144 U.S.C.” (ECF Nos. 10 & 12) are DENIED as moot.

DATED at Denver, Colorado, this 5th day of June, 2020.

BY THE COURT:

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