

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

October 31, 2006

Elisabeth A. Shumaker
Clerk of Court

KAY SIEVERDING,

Plaintiff-Appellant,

v.

WORLDWEST LIMITED
LIABILITY COMPANY,

Defendant-Appellee.

No. 06-3178
(D.C. No. 05-CV-2510-JWL)
(D. Kan.)

ORDER AND JUDGMENT*

Before **BARRETT, ANDERSON, and BALDOCK**, Circuit Judges.

Kay Sieverding, proceeding pro se, appeals from the dismissal of her suit against Worldwest LLC. The district court dismissed Ms. Sieverding's suit by granting a motion filed by Ms. Sieverding to dismiss the case without prejudice.

As a general rule, an order granting a motion to voluntarily dismiss without

* After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist the determination of this appeal. *See* Fed. R. App. P. 34(a)(2); 10th Cir. R. 34.1(G). The case is therefore ordered submitted without oral argument. This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. The court generally disfavors the citation of orders and judgments; nevertheless, an order and judgment may be cited under the terms and conditions of 10th Cir. R. 36.3.

prejudice is not appealable. *See Bryan v. Office of Personnel Management*, 165 F.3d 1315, 1321 (10th Cir. 1999) (“Because [the plaintiff] voluntarily moved to dismiss, she could not appeal the district court’s order”).

Ms. Sieverding claims on appeal that her dismissal was not voluntary because she stated in her motion that she was moving to dismiss the suit under duress of jail. While it is true that Ms. Sieverding’s motion states that she is moving to dismiss under duress of jail, that does not change the fact that she herself filed the motion and asked the court to dismiss the suit. The district court then granted the requested relief. Because the district court was acting on Ms. Sieverding’s own request to dismiss the suit without prejudice, she may not now appeal the district court’s decision to grant the requested relief. *See Coffey v. Whirlpool Corp.*, 591 F.2d 618, 620 (10th Cir. 1979) (“[W]here the dismissal is upon motion of the plaintiffs themselves, as here, we will not permit those plaintiffs to appeal, saying that the court should not have granted their own motion.”). The appeal is DISMISSED for lack of jurisdiction. All outstanding motions are DENIED.

Entered for the Court

Bobby R. Baldock
Circuit Judge