

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 08-cv-02829-BNB

FELICIA WALKER,

Plaintiff,

v.

ARI ZAVARAS, Executive Director,
CECILIA LOPEZ, Medical Staff,
MS. SHOEMAKER, Medical Director DOC, and
COLORADO DEPT. OF CORRECTIONS,

Defendants.

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

APR 22 2009

GREGORY C. LANGHAM
CLERK

ORDER DENYING MOTION TO RECONSIDER

Plaintiff Felicia Walker, a State of Colorado prisoner, has filed two *pro se* Letters addressing the April 1, 2009, Order of Dismissal. The Court must construe the Letters liberally because Ms. Walker is a *pro se* litigant. *See Haines v. Kerner*, 404 U.S. 519, 520-21 (1972); *Hall v. Bellmon*, 935 F.2d 1106, 1110 (10th Cir. 1991).

In the April 9, 2009, Letter, Ms. Walker states that prison staff knew she had a deadline to submit her initial partial filing fee to the Court, but they were delinquent in processing her request for a money order. Ms. Walker further states that she did not believe she needed to ask for an extension of time to submit the payment, because she had told the captains that she had a deadline. Ms. Walker also contends that the instant case should not be dismissed because of prison staff's inaction.

In the April 13, 2009, Letter, Ms. Walker attaches a copy of a second request for a money order that she submitted for a money order to be sent to the Court. Ms. Walker again claims that the DOC prison staff is responsible for the delay in processing her request for a money order.

A litigant subject to an adverse judgment, and who seeks reconsideration by the district court of that adverse judgment, may “file either a motion to alter or amend the judgment pursuant to Fed. R. Civ. P. 59(e) or a motion seeking relief from the judgment pursuant to Fed. R. Civ. P. 60(b).” *Van Skiver v. United States*, 952 F.2d 1241, 1243 (10th Cir. 1991). Ms. Walker submitted the Motion within ten days after the Order of Dismissal and the Judgment were entered in the instant action. The Court, therefore, will construe the Letter as a Motion to Reconsider filed pursuant to Rule 59(e). **See *Van Skiver***, 952 F.2d at 1243.

In the April 1, 2009, Order of Dismissal, the Court dismissed the action because Ms. Walker failed within the time allowed to comply with Magistrate Judge Boland’s February 12, 2009, Order by either paying the initial partial filing fee or in the alternative showing cause why she has no assets and no means by which to pay the designated fee. Ms. Walker was given thirty days to comply with the February 12, 2009, Order. Ms. Walker is responsible for informing the Court of any inability to comply with a court order within the specified time.

Ms. Walker concedes that she knew she was not able to obtain the money order within the time allowed. Ms. Walker was given more than thirty days to comply before the action was dismissed. Even after the thirty days had passed, she still failed to

inform the Court of her inability to comply with the February 12, 2009, Order. The Court, therefore, concludes that Ms. Walker fails to demonstrate some reason why the Court should reconsider and vacate the April 1, 2009, Order of Dismissal. Ms. Walker is reminded that the instant action was dismissed without prejudice, and she may, if she desires, seek to file a new action. Accordingly, it is

ORDERED that the Letters (Docs. # 11 and # 12) are construed as a Motion to Reconsider, filed pursuant to Fed. R. Civ. P. 59(e). It is

FURTHER ORDERED that the Motion to Reconsider is DENIED.

DATED at Denver, Colorado, this 22 day of April, 2009.

BY THE COURT:



ZITA L. WEINSHIENK, Senior Judge
United States District Court

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

CERTIFICATE OF MAILING

Civil Action No. 08-cv-02829-ZLW

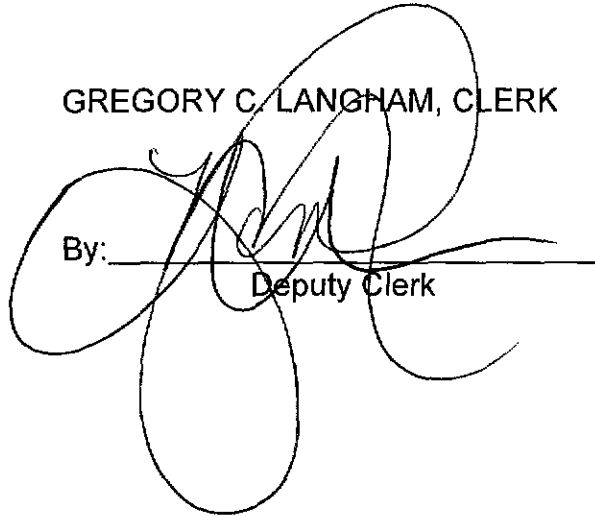
Felicia Walker
Prisoner No. 135374
Denver Women's Corr. Facility
PO Box 392005
Denver, CO 80239

I hereby certify that I have mailed a copy of the **ORDER** to the above-named individuals on 4/22/09

GREGORY C. LANGHAM, CLERK

By: _____

Deputy Clerk

A large, stylized handwritten signature in black ink, written over a horizontal line. The signature is highly cursive and loops around itself. Below the signature, the text "Deputy Clerk" is printed.