

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 10-cv-00027-ZLW

JENNIFER D. HARRIS,

Plaintiff,

v.

TRAVIS TRANI - Warden,  
RAMONA AVANT - Captain, and  
TONYA GAMBLIN - Sergeant,

Defendants.

**FILED**  
UNITED STATES DISTRICT COURT  
DENVER, COLORADO

MAR 12 2010

GREGORY C. LANGHAM  
CLERK

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ORDER GRANTING MOTION TO RECONSIDER AND REINSTATING CASE

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Plaintiff, Jennifer D. Harris, filed *pro se* on March 3, 2010, a document titled "Court Error" asking the Court to reconsider and vacate the Order of Dismissal and the Judgment filed in this action on February 18, 2010. The Court must construe the document liberally because Ms. Harris is proceeding *pro se*. *See Haines v. Kerner*, 404 U.S. 519, 520-21 (1972); *Hall v. Bellmon*, 935 F.2d 1106, 1110 (10th Cir. 1991). For the reasons stated below, the document will be construed liberally as a motion to reconsider, and the motion will be granted.

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). A motion to reconsider pursuant to Rule 59(e) must be filed no later than twenty-eight days after entry of the judgment. *See* Fed. R. Civ. P. 59(e). Ms.

Harris's motion to reconsider in this action, which was filed within twenty-eight days of the Order of Dismissal and the Judgment, will be considered pursuant to Fed. R. Civ. P. 59(e). The three major grounds that justify reconsideration are: (1) an intervening change in the controlling law; (2) the availability of new evidence; and (3) the need to correct clear error or prevent manifest injustice. **See *Servants of the Paraclete v. Does***, 204 F.3d 1005, 1012 (10th Cir. 2000).

On January 28, 2010, Ms. Harris submitted to the Court a copy of her trust fund account statement with a notary public stamp by Patricia A. Gabriel. The Court dismissed this action without prejudice for Ms. Harris' failure to file a certified copy of her trust fund account statement from the appropriate prison official. In her motion to reconsider, Ms. Harris clarifies that Ms. Gabriel is her case manager and therefore an appropriate prison official to provide her with the six-month certified account statement. In addition, she attaches a copy of her six-month account statement certified by "Case Manager P. Gabriel," whose notary public stamp indicates that she is Patricia A. Gabriel.

Upon consideration of the motion to reconsider and the entire file, the Court finds that circumstances exist that justify a decision to reconsider and vacate the order dismissing this action. The Court finds that the case must be reopened in order to prevent manifest injustice to Ms. Harris. **See *Servants of the Paraclete***, 204 F.3d at 1012. Therefore, the motion to reconsider will be granted. Accordingly, it is

ORDERED that the document titled "Court Error," which the Court has construed liberally as a Fed. R. Civ. P. 59(e) motion, is granted. It is

FURTHER ORDERED that the February 18, 2010, dismissal order and judgment are vacated. It is

FURTHER ORDERED that the clerk of the Court is directed to reinstate and return this action to the *pro se* docket. It is

FURTHER ORDERED that Ms. Harris will be granted leave to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915 by separate order.

DATED at Denver, Colorado, this 11th day of March, 2010.

BY THE COURT:

s/Philip A. Brimmer  
PHILIP A. BRIMMER  
United States District Judge, for  
ZITA LEESON WEINSHIENK, Senior Judge  
United States District Court

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

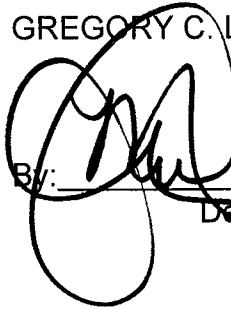
**CERTIFICATE OF MAILING**

Civil Action No. 10-cv-00027-ZLW

Jennifer D. Harris  
Prisoner No. 124800  
Denver Women's Corr. Facility  
PO Box 392005 - Unit 2-230  
Denver, CO 80239

I hereby certify that I have mailed a copy of the **ORDER** to the above-named individuals on 3/12/10

GREGORY C. LANGHAM, CLERK



By: \_\_\_\_\_

Deputy Clerk