

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 11-cv-03154-BNB

DR. K K BUCCINI, existing as
M S MOSLEY, et al.,

Plaintiff,

v.

REGINA SANDERS GROFF, and
BEVERLY J. HARVARD,

Defendants.

AMENDED ORDER OF DISMISSAL

Plaintiff, Dr. K K Buccini, also known as M S Mosley, Karolina Kennedy Buccini, and Maleika S. Mosley, and formerly known as Karolina Rosa Kennedy Ferrara, filed *pro se* a letter (ECF No. 1) and an application to proceed in district court without prepaying fees or costs (ECF No. 2). For purposes of this order, Plaintiff will be referred to as Dr. Buccini.

On December 9, 2011, Magistrate Judge Boyd N. Boland entered an order (ECF No. 3) directing Dr. Buccini to file within thirty days a motion and affidavit for leave to proceed pursuant to 28 U.S.C. § 1915 and a complaint on the proper, Court-approved forms available, together with the applicable instructions, at www.cod.uscourts.gov. The December 9 order informed Dr. Buccini that, as an alternative to filing a § 1915 motion and affidavit on the Court-approved form, she could pay the \$350.00 filing fee in advance. The December 9 order warned Dr. Buccini that, if she failed to cure the

designated deficiencies within the time allowed, the action would be dismissed without further notice and without prejudice.

On January 4, 2012, Dr. Buccini filed a complaint (ECF No. 4) for money damages pursuant to 18 U.S.C. § 241 and 42 U.S.C. § 1985(2) and (3) and an application to proceed in district court without prepaying fees or costs (ECF No. 5). Neither document was submitted on the Court-approved forms. However, the action will not be dismissed for that reason.

In an order filed on January 18, 2012, the Court gave Dr. Buccini one final opportunity to submit in thirty days either the \$350.00 filing fee or a § 1915 motion and affidavit on the proper, Court-approved form available at www.cod.uscourts.gov. In addition, the Court directed Dr. Buccini to file within thirty days an amended complaint on the proper, Court-approved form, also available, together with the applicable instructions, at www.cod.uscourts.gov. The January 18 order informed Dr. Buccini she may not pursue her asserted claims pursuant to § 241 because there was no private cause of action under § 241; the amended complaint she was directed to file must comply with the pleading requirements of Rule 8 of the Federal Rules of Civil Procedure; and she must assert personal participation by each named defendant. The January 18 order warned Dr. Buccini that if she failed to file an amended complaint as directed within the time allowed, the complaint and the action would be dismissed without further notice.

On February 23, 2012, the Court dismissed the complaint and the action without prejudice for Dr. Buccini's failure, within the time allowed to cure the designated deficiencies, to file an amended complaint as directed or otherwise to communicate with

the Court in any way. At the time the Court entered the February 23 dismissal order, the Court was unaware that Dr. Buccini had filed on February 22, 2012, a document titled "Declaration of Technical [sic] Difficulty" (ECF No. 10). Plaintiff's discussion in the declaration of events dating back to 1998 fails to provide any coherent and logical reason for her failure to comply with the January 18 order within the time allowed. To the extent Dr. Buccini seeks an extension of time to comply with the January 18 order, the request will be denied.

Once again, the Court finds that Dr. Buccini has failed, within the time allowed, to cure the designated deficiencies or file an amended complaint as directed. The complaint and the action will be dismissed without prejudice for failure to comply with the January 18 order within the time allowed.

Finally, 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 Dr. Buccini files a notice of appeal she must also pay the full \$455.00 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, to the extent Plaintiff, Dr. K K Buccini, in the document titled "Declaration of Technical [sic] Difficulty" (ECF No. 10), seeks an extension of time in order to comply with the order of January 18, 2012, the request is denied. It is

FURTHER ORDERED that the complaint and the action are dismissed without prejudice pursuant to Rule 41(b) of the Federal Rules of Civil Procedure for the failure of Plaintiff, Dr. K K Buccini, within the time allowed, to comply with the order of January 18, 2012. It is

FURTHER ORDERED that leave to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915 is denied. It is

FURTHER ORDERED that any other pending motions are denied as moot. It is

FURTHER ORDERED that leave to proceed *in forma pauperis* on appeal is denied.

DATED at Denver, Colorado, this 27th day of February, 2012.

BY THE COURT:

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