

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 13-cv-03129-BNB

LORETTA SANTISTEVAN

Plaintiff,

v.

TRINIDAD POLICE DEPARTMENT - CHARLES GOLIRISO, Chief of Police,
LES DOWNS, Ineffective Counsel, Attorney at Law, and
FRANK RUBALID, District Attorney that went by hearsay,

Defendants.

ORDER OF DISMISSAL

On November 18, 2013, Plaintiff, Loretta Santistevan, an inmate at the La Vista Correctional Facility in Pueblo, Colorado, submitted *pro se* a Prisoner Complaint and Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915.

On November 19, 2013, Magistrate Judge Boyd N. Boland entered an order directing Plaintiff to cure certain deficiencies within thirty days if she wished to pursue her claims in this Court. Plaintiff was advised that to the extent she was challenging her conditions of confinement and medical treatment, she was required to submit a Prisoner Complaint, and to the extent she was challenging the validity of the sentence she is serving, she was required to pursue her claims in a separate action by filing an Application for Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254. Plaintiff was warned that the action would be dismissed without further notice if she failed to cure the deficiencies within thirty days.

On December 17, 2013, Plaintiff submitted a letter requesting an extension of time to cure the deficiencies. The Court granted Plaintiff's request and informed Plaintiff

that she had up to and including January 17, 2014, to cure the deficiencies designated in the Order to Cure entered on November 19, 2013.

Plaintiff did not file any complaint or application with the Court and has failed to communicate with the Court in any way since December 17, 2013. As a result, Plaintiff has failed to cure the deficiencies within the time allowed. The Court, therefore, will dismiss the action for failure to cure and failure to prosecute.

The Court also certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this Order is not taken in good faith, and, therefore, *in forma pauperis* status is denied for the purpose of appeal. See *Coppedge v. United States*, 369 U.S. 438 (1962). If Plaintiff files a notice of appeal she must also pay the full \$505 appellate filing fee or file a motion to proceed *in forma pauperis* in the Tenth Circuit within thirty days in accordance with Fed. R. App. P. 24. Accordingly, it is

ORDERED that the Complaint and action are dismissed without prejudice pursuant to Fed. R. Civ. P. 41(b) for failure to cure the deficiencies and for failure to prosecute. It is

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

FURTHER ORDERED that all pending motions are denied as moot.

DATED at Denver, Colorado, this 23th day of January, 2014.

BY THE COURT:

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