

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 13-cv-03448-BNB

KARLA LYNN CODY,

Plaintiff,

v.

JUDGE,

Defendant,

ORDER OF DISMISSAL

Plaintiff, Karla Lynn Cody, was an inmate at the Weld County Jail in Greeley, Colorado. She currently is being held at the Colorado Mental Health Institute in Pueblo, Colorado. Ms. Cody initiated this action by filing *pro se* a series of letters (ECF No. 1) complaining that her rights have been violated in connection with a state court criminal action and that she wants to file a lawsuit for damages, a Motion to Impeach (ECF No. 3), and a Motion to Appeal (ECF No. 4). The instant action was commenced and on December 20, 2013, Magistrate Judge Boyd N. Boland entered an order directing Ms. Cody to cure certain deficiencies if she wishes to pursue any claims in this action. Specifically, Magistrate Judge Boland directed Ms. Cody to file on the court-approved form a Prisoner Complaint and either to pay filing and administrative fees totaling \$400.00 or to file on the court-approved form a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915. Ms. Cody was warned that the action would be dismissed without further notice if she failed to cure the deficiencies within thirty

days.

On January 7, 2014, Ms. Cody submitted for filing another letter (ECF No. 6) apparently seeking clarification of the order directing her to cure deficiencies. On January 8, 2014, Magistrate Judge Boland entered a minute order reiterating and clarifying the deficiencies Ms. Cody must cure if she wishes to pursue any claims in this action and granting her an extension of time until February 10, 2014, to cure those deficiencies.

Ms. Cody has continued to file letters to the Court (see ECF Nos. 8-12) that are not relevant to the deficiencies she was ordered to cure. She has failed to file a pleading that identifies the claims she intends to pursue in this action and she has failed either to pay the required filing and administrative fees or to file a properly-supported motion seeking leave to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915. Therefore, the action will be dismissed without prejudice for failure to cure the deficiencies.

Furthermore, 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 Plaintiff files a notice of appeal she also must pay the full \$505 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 the action is dismissed without prejudice pursuant to Rule 41(b) of the Federal Rules of Civil Procedure because Ms. Cody failed to cure the deficiencies as directed. It is

FURTHER ORDERED that leave to proceed *in forma pauperis* on appeal is denied without prejudice to the filing of a motion seeking leave to proceed *in forma pauperis* on appeal in the United States Court of Appeals for the Tenth Circuit. It is

FURTHER ORDERED that the pending motions are denied as moot.

DATED at Denver, Colorado, this 19th day of February, 2014.

BY THE COURT:

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