

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 15-cv-00003-GPG

HEATHER IRENE SMOTHERS,

Plaintiff,

v.

STATE OF COLORADO,
DENVER POLICE DEPARTMENT,
CITY AND COUNTY OF DENVER,
BIRTH FAMILY (If involved, were disaffected [sic] 30 Yrs Ago),
SHEILA CATHERINE SMOTHERS & FAMILY, All Parties and Individuals Who
Became Involved in this Case as Their [sic] are Many, Too Many to List, Too
Many Responsible Parties Too [sic] List,

Defendants.

ORDER OF DISMISSAL

Plaintiff Heather Irene Smothers currently resides in Denver, Colorado. Plaintiff initiated this action by filing *pro se* a Complaint and an Application to Proceed in District Court Without Prepayment of Fees or Costs. Magistrate Judge Gordon P. Gallagher granted the Application on January 2, 2015. Magistrate Judge Gallagher then reviewed the merits of the Complaint and found that the Complaint failed to comply with Fed. R. Civ. P. 8., because Plaintiff failed to set forth a short and plain statement of her claims showing that she is entitled to relief.

Magistrate Judge Gallagher also found that the allegations are prolix and unintelligible and that Plaintiff failed to complete the Jurisdiction section of the Complaint

form and state the basis for jurisdiction in this Court. Magistrate Judge Gallagher warned Plaintiff that if she failed to comply with the Order to Amend within the time allowed the Court would dismiss the action without further notice.

On January 16, 2015, Plaintiff filed a Letter, ECF No. 6, in which she asserts more prolix and unintelligible claims that are an alleged narrative of events of her life. The Letter does not comply with the January 4, 2015 Order, and Plaintiff does not state in the Letter that she is unable to comply with the Court's January 4 Order or that she needs additional time to do so. Plaintiff, therefore, has failed to comply with the Court's January 4 Order to Amend within the time allowed.

The Court finds Magistrate Judge Gallagher correctly determined that Plaintiff failed to comply with Rule 8 and required her to amend the Complaint. Because Plaintiff now has failed to comply with the January 4, 2015 Order within the time allowed and fails to assert a reason why she is unable to do so, the Court will dismiss the action for failure to comply with a Court order and 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 paupers* 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 pampers* 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 file a properly Amended Complaint within the time allowed and for failure to prosecute. It is

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

DATED at Denver, Colorado, this 11th day of February, 2015.

BY THE COURT:

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