

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 15-cv-02427-LTB

DOUGLAS A. GLASER,

Applicant,

v.

TRAVIS TRANI, and
CYNTHIA A. COFFMAN, Attorney General of the State of Colorado,

Respondents.

ORDER GRANTING MOTION TO RECONSIDER

This matter is before the Court on the “Request for Explanation of Court’s Order” (ECF No. 9) filed February 11, 2016, by Applicant, Douglas A. Glaser. The Court construes the request as a motion to reconsider the Court’s Order of Dismissal (ECF No. 7) and the Judgment (ECF No. 8) entered in this action on January 14, 2016. For the reasons stated below, the liberally construed motion to reconsider will be granted.

Mr. Glaser initiated this action by filing *pro se* a letter (ECF No. 1) alleging he is innocent and seeking habeas corpus relief. On November 3, 2015, Magistrate Judge Gordon P. Gallagher entered an order directing Mr. Glaser to cure certain deficiencies. Specifically, Magistrate Judge Gallagher directed Mr. Glaser to file an application for a writ of habeas corpus and either to pay the \$5.00 filing fee or to file a properly supported motion seeking leave to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915. On November 23, 2015, Mr. Glaser filed a Petition Under 28 U.S.C. § 2254 for Writ of Habeas Corpus by a Person in State Custody (ECF No. 4). On December 9, 2015, Magistrate

Judge Gallagher entered a minute order advising Mr. Glaser that he had failed to cure the deficiencies because the pleading filed on November 23 was not on the proper form and he had failed either to pay the \$5.00 filing fee or to file a properly supported motion to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915. Mr. Glaser was given another opportunity to cure the deficiencies.

On December 23, 2015, Mr. Glaser filed on the proper form an Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254 (ECF No. 6). On January 14, 2016, the Court dismissed the action for failure to cure all of the deficiencies because there was no indication that Mr. Glaser has either paid the \$5.00 filing fee or filed a properly supported motion to proceed *in forma pauperis* within the time allowed.

Mr. Glaser alleges in the liberally construed motion to reconsider that the \$5.00 filing fee for this action was paid on December 23, 2015. Although proof of that filing fee payment was not docketed when the payment was received, the Court's docketing records now reflect that the filing fee for this action was paid on December 23, 2015. Therefore, the liberally construed motion to reconsider will be granted. Accordingly, it is

ORDERED that the "Request for Explanation of Court's Order" (ECF No. 9), which the Court construes as a motion to reconsider, is GRANTED. It is

FURTHER ORDERED that the Order of Dismissal (ECF No. 7) and the Judgment (ECF No. 8) entered in this action on January 14, 2016, are VACATED. It is

FURTHER ORDERED that the clerk of the Court reinstate and return this action to the Pro Se Docket.

DATED at Denver, Colorado, this 25th day of February, 2016.

BY THE COURT:

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