

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
SOUTHEASTERN DIVISION

Zorica Mujkanovic,)
)
Plaintiff,)
)
vs.)
)
North Dakota Workforce Safety Insurance,)
)
Defendant.)
)

**ORDER ADOPTING REPORT AND
RECOMMENDATIONS**

Civil No. 3:10-cv-69

Plaintiff Mujkanovic filed a complaint in which she wishes to appeal the decision of North Dakota Workforce Safety Insurance (“WSI) denying her claim for benefits. The Court has received a Report and Recommendation from the Honorable Karen K. Klein, United States Magistrate Judge, recommending that:

- 1) Mujkanovic’s complaint be dismissed with prejudice;
- 2) The Court certify that an appeal from the dismissal of this action may not be taken *in forma pauperis* because such an appeal is frivolous and cannot be taken in good faith; and
- 3) A certificate of appealability not be issued with respect to any of the issues raised by Mujkanovic in this action.

No party has objected to the Report and Recommendation.

The Court has reviewed the Report and Recommendation and finds that the Eleventh Amendment provides states and state agencies with immunity from Mujkanovic’s claims. Thus, the Report and Recommendation is adopted in its entirety.

Based upon the entire record before the Court, dismissal of the complaint is not debatable, reasonably subject to a different outcome on appeal, or otherwise deserving of further proceedings.

Therefore, a certificate of appealability will not be issued by this court. See Tiedeman v. Benson, 122 F.3d 518, 522 (8th Cir. 1997) (holding that a district court possesses the authority to issue certificates of appealability under 28 U.S.C. § 2253(c)). If the plaintiff desires further review of her complaint, she may request the issuance of a certificate of appealability by a circuit judge of the Eighth Circuit Court of Appeals in accordance with Tiedeman v. Benson, 122 F.3d 518, 25-52 (8th Cir. 1997).

Additionally, the Court finds that any appeal would be frivolous, could not be taken in good faith, and may not be taken *in forma pauperis*. See 28 U.S.C. § 1915(a)(3) (“An appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith.”); see also Coppedge v. United States, 360 U.S. 438, 444-45 (1962).

For the foregoing reasons, Mujkanovic’s complaint is **DISMISSED WITH PREJUDICE**.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated this 17th day of September, 2010.

/s/ Ralph R. Erickson
Ralph R. Erickson, Chief District Judge
United States District Court