

FILED
United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

September 15, 2023

Christopher M. Wolpert
Clerk of Court

MEGAN KYTE,

Plaintiff - Appellant,

v.

COLORADO DMV,

Defendant - Appellee.

No. 23-1045
(D.C. No. 1:23-CV-00358-LTB)
(D. Colo.)

ORDER AND JUDGMENT*

Before **TYMKOVICH**, **McHUGH**, and **CARSON**, Circuit Judges.

Plaintiff Megan Kyte, appearing pro se, appeals the district court’s dismissal of her discrimination suit against Defendant Colorado DMV. She also moves to proceed *in forma pauperis*. Exercising jurisdiction under 28 U.S.C. § 1291, we affirm. We also deny Plaintiff’s request to proceed *in forma pauperis*.

* After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist in the determination of this appeal. *See* Fed. R. App. P. 34(a)(2); 10th Cir. R. 34.1(G). The case is therefore ordered submitted without oral argument. This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. It may be cited, however, for its persuasive value consistent with Fed. R. App. P. 32.1 and 10th Cir. R. 32.1.

I.

Plaintiff is no stranger to the federal court system. Between June 2021 and October 2022, she filed thirteen pro se civil actions against various defendants in the United States District Court for the District of Colorado. The district court dismissed ten of those suits because Plaintiff failed to comply with jurisdictional or procedural rules. Plaintiff voluntarily dismissed the other three. After Plaintiff's thirteenth dismissal, the district court enjoined Plaintiff from filing any more pro se civil cases in the District of Colorado without the court's permission.

Plaintiff filed the present case, pro se, less than four months later. She claims the Colorado DMV violated her Fourteenth Amendment "right to liberty and freedom from oppression" by denying her an ID Card and rendering her unable to seek employment. But because Plaintiff never obtained the court's permission to proceed pro se, the district court dismissed her claims. Plaintiff appeals.

II.

We must determine whether the district court abused its discretion by dismissing Plaintiff's action. "We review for an abuse of discretion the district court's decision to impose the sanction of dismissal for failure to follow court orders and rules." Gripe v. City of Enid, 312 F.3d 1184, 1188 (10th Cir. 2002) (citing Archibeque v. Atchison, Topeka & Santa Fe Ry. Co., 70 F.3d 1172, 1174 (10th Cir.1995)). "Under this standard, we will not disturb a trial court's decision absent a definite and firm conviction that the lower court made a clear error of judgment or exceeded the bounds of permissible choice in the circumstances." Norton v. City of

Marietta, 432 F.3d 1145, 1156 (10th Cir. 2005) (per curiam) (citing Cummings v. GMC, 365 F.3d 944, 952 (10th Cir. 2004)).

District courts have the power to enjoin litigants who abuse the court system. Tripati v. Beaman, 878 F.2d 351, 352 (10th Cir. 1989). After dismissing thirteen of Plaintiff's non-meritorious actions, the district court enjoined her from representing herself in civil cases unless she first obtained the court's leave to do so. Kyte v. Mayes, No. 22-cv-02392, ECF No. 6 (D. Colo. Oct. 31, 2022). Plaintiff never challenged the court's sanction order. Instead, she filed a new civil action without an attorney's representation or the court's permission to proceed pro se. As a result, Plaintiff violated her filing restrictions. We conclude, based upon Plaintiff's filing history, that the district court did not abuse its discretion when it dismissed her claims.

III.

Plaintiff also moves this Court to proceed *in forma pauperis*. To proceed *in forma pauperis*, Plaintiff must show "a financial inability to pay the required filing fees *and* the existence of a reasoned, nonfrivolous argument on the law and facts in support of the issues raised on appeal." DeBardleben v. Quinlan, 937 F.2d 502, 505 (10th Cir. 1991) (emphasis added) (citing 28 U.S.C. § 1915(a)).

In her opening brief, Plaintiff failed to raise any issues for review, instead reiterating her claim that the Colorado DMV discriminated against her. But because the district court dismissed Plaintiff's case as a sanction, the court never reached the merits of that claim. Plaintiff, having failed to advance any argument relating to the

district court’s dismissal, has failed to show “the existence of a reasoned, nonfrivolous argument on the law and facts in support of the issues raised on appeal.” DeBardeleben, 937 F.2d at 505. We, therefore, deny her motion to proceed *in forma pauperis* accordingly.

AFFIRMED.

Entered for the Court

Joel M. Carson III
Circuit Judge