

FILED
United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

September 30, 2026

Christopher M. Wolpert
Clerk of Court

KASEBAJALE A. MAYO,

Plaintiff - Appellant

v.

PERFORMANCE PROPERTY
MANAGEMENT, INC.; OTIEBO
INVESTMENTS LTD; GREGORY
BERAN,

Defendants - Appellees.

No. 26-1258
(D.C. No. 1:26-CV-00339-LTB)
(D. Colo.)

ORDER AND JUDGMENT*

Before **MORITZ**, **BALDOCK**, and **EID**, Circuit Judges.

KaSebajale Mayo, proceeding pro se,¹ appeals the district court's order dismissing her complaint without prejudice after she failed—on three occasions—to

* After examining the brief 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 This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. But it may be cited for its persuasive value. *See* Fed. R. App. P. 32.1(a); 10th Cir. R. 32.1(A).

¹ Although we liberally construe Mayo's pro se filings, we do not act as her advocate or create arguments on her behalf. *See Yang v. Archuleta*, 525 F.3d 925, 927 n.1 (10th Cir. 2008).

correct various procedural deficiencies in her complaint. Because her appellate brief includes no argument directed at the district court's reasoning, we affirm.

When Mayo filed the action below,² she proceeded pro se and in forma pauperis (IFP). Under the District of Colorado's local rules, plaintiffs who proceed IFP must use a court-approved form when filing a complaint. *See* D. Colo. Civ. R. 8.1(a). The same rule permits a designated judicial officer to review such pleadings and request additional information, as needed. *Id.*

Mayo started off on the right foot, mostly. She filed her original complaint on the appropriate form but neglected to complete some of the complaint form's key sections. The district court identified these deficiencies, ordered Mayo to cure them within 30 days, and warned her that failure to do so would result in dismissal without prejudice. Trying again, Mayo added the missing information, but she also used a different, incorrect form. The district court then gave Mayo another 30 days to cure this new deficiency, again explaining that failure to cure would result in dismissal without prejudice. Both deficiency orders directed Mayo to the website where she could access the appropriate form. Mayo made a final attempt, but the third time was not the charm. She used yet another improper form.

² In content, Mayo's complaint seems to seek reconsideration of claims previously rejected. In August 2019, we affirmed the district court's dismissal of a case filed by Mayo against three of the same defendants premised on events surrounding her 2018 eviction. *See Mayo v. Performance Prop. Mgmt., Inc.*, 780 F. App'x 653, 654–55, 657 (10th Cir. 2019). In the present action, Mayo asks the court to “set aside the 2018 judgment,” reach the merits of her 2018 claims, and award damages stemming from the 2018 eviction. R. 74.

The district court then dismissed the action without prejudice under Federal Rule of Civil Procedure 41(b) for failure to follow a court order. *See Olsen v. Mapes*, 333 F.3d 1199, 1204 n.3 (10th Cir. 2003) (explaining that Rule 41(b) “has long been interpreted to permit courts to dismiss actions sua sponte for a plaintiff’s failure to prosecute or comply with the rules of civil procedure or court’s orders”); *Hume v. Colorado*, 815 F. App’x 312, 313 (10th Cir. 2020) (affirming dismissal of action when pro se plaintiff failed to use court-approved form after receiving instructions and warnings from district court).³ The district court later denied Mayo’s motion to vacate the dismissal.

Mayo appeals. In so doing, her “first task . . . is to explain to us why the district court’s decision was wrong.” *Nixon v. City & County of Denver*, 784 F.3d 1364, 1366 (10th Cir. 2015). When a party “utterly fails . . . to explain what was wrong with the reasoning that the district court relied on in reaching its decision,” we consider their arguments waived and “affirm[] the judgment below.” *Id.* at 1366, 1368. Indeed, we do not address a ruling if the “argument section of [an appellant’s] opening brief does not challenge the court’s reasoning on th[at] point.” *Reedy v. Werholtz*, 660 F.3d 1270, 1275 (10th Cir. 2011). This rule holds true even for pro se litigants. *See Toevs v. Reid*, 685 F.3d 903, 911 (10th Cir. 2012).

Here, even under the liberal construction that we grant to pro se filings, *see Yang*, 525 F.3d at 927 n.1, Mayo’s brief focuses exclusively on the merits of her

³ We cite this unpublished authority for its persuasive value. *See* Fed. R. App. P. 32.1(a); 10th Cir. R. 32.1(A).

claims and never challenges the district court's procedural grounds for dismissing. To be sure, the brief seeks "relief from judgment" and "vacating and setting aside the final judgment." Aplt. Br. 4 (cleaned up), 13. But to get from those general requests to an argument challenging the reasons for either of the district court's orders, we would have to create arguments on Mayo's behalf. We will not do so. *See Yang*, 525 F.3d at 927 n.1.

Because Mayo fails to challenge the district court's orders, we affirm. Mayo's waiver also proves dispositive for her request to proceed IFP on appeal. Absent a "reasoned, nonfrivolous argument" on appeal, we deny her IFP motion. *DeBardeleben v. Quinlan*, 937 F.2d 502, 505 (10th Cir. 1991).

Entered for the Court

Nancy L. Moritz
Circuit Judge