

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW MEXICO

Hailey Davis v. Judy Kim

Davis · No. No. 2:26-cv-00036-KG-GJF · Decided February 3, 2026

OPINION

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW MEXICO
HAILEY DAVIS, Plaintiff, v. No. 2:26-cv-00036-KG-GJF JUDY KIM, Defendant.
MEMORANDUM OPINION AND ORDER OF DISMISSAL THIS MATTER comes before the Court on pro se Plaintiff's Complaint, Doc. 1, filed January 8, 2026, and Plaintiff's Application to Proceed in District Court Without Prepaying Fees or Costs (Short Form), Doc.

2, filed January 9, 2026 ("Short Form Application"). The only allegations in the Complaint state: 1. Upon information and belief, Defendant had ex parte communication with individual in 101014/2022 [sic], 2. Defendant conspired with individual in violation of due process, 3. This Court has jurisdiction under federal law. 4. Plaintiff demands a trial of jury and with compensation of \$1,000,000.

Complaint at 1. United States Magistrate Judge Gregory J. Fouratt notified Plaintiff that the Complaint failed to state a claim upon which relief can be granted and ordered Plaintiff to file an amended complaint. See Order at 2, 4, Doc. 4, filed January 12, 2026 (notifying Plaintiff that failure to timely file an amended complaint may result in dismissal of this case).

Plaintiff did not file an amended complaint by the February 2, 2026, deadline. Plaintiff also filed a motion to proceed in forma pauperis using a Short Form Application. See Application to Proceed in District Court Without Prepaying Fees or Costs (Short Form), Doc. 2, filed January 9, 2025. Judge Fouratt notified Plaintiff the Short Form Application does not provide sufficient information for the Court to determine whether a plaintiff is unable to pay the required fees and ordered Plaintiff to file an Application to Proceed in District Court Without Prepaying Fees or Costs (Long Form).

See Order at 1, 4 (notifying Plaintiff that failure to timely file a Long Form Application may result in denial of the motion to proceed in forma pauperis). Plaintiff did not file a Long Form Application by the February 2, 2026, deadline. Judge Fouratt's Order to file an amended complaint and to file a Long Form Application that the Clerk mailed to Plaintiff was "returned as undeliverable." Doc's 5, 6, filed January 22 and 26, 2026; D.N.M.LR-Civ.

83.6 ("parties appearing pro se have a continuing duty to notify the Clerk, in writing of any change in their... mailing address"). The Court dismisses this case without prejudice because Plaintiff has not complied with Judge Fouratt's Order to file an amended complaint and to file a

Long Form Application to proceed in forma pauperis. See Fed. R. Civ. P. 41(b) (“If the plaintiff fails to prosecute or to comply with these rules or a court order, a defendant may move to dismiss the action”); *Gustafson v. Luke*, 696 Fed.Appx.

352, 354 (10th Cir. 2017) (“Although the language of Rule 41(b) requires that the defendant file a motion to dismiss, the Rule 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.”) (quoting *Olsen v. Mapes*, 333 F.3d 1199, 1204 n.3 (10th Cir.

2003)). Because it is dismissing this case and based on Plaintiff's failure to comply with Judge Fouratt's Order to file a Long Form Application, the Court denies Plaintiff's Short Form Application to proceed in forma pauperis. IT IS ORDERED that: (i) This case is DISMISSED without prejudice. (ii) Plaintiff's Application to Proceed in District Court Without Prepaying Fees or Costs (Short Form), Doc.

2, filed January 9, 2026, is DENIED. /s/Kenneth J. Gonzales_____ CHIEF UNITED STATES DISTRICT JUDGE • Please note that this document has been electronically filed. To verify its authenticity, please refer to the Digital File Stamp on the NEF (Notice of Electronic Filing) accompanying this document. Electronically filed documents can be found on the Court's PACER public access system.