

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

ELIZABETH MUNOZ)	
)	
Plaintiff,)	
)	
vs.)	Case No. 07-1004-MLB
)	
CAROLYN TSCHETTER,)	
OFFICE AIDE, INC.)	
)	
Defendant.)	
_____)	

REPORT AND RECOMMENDATION

Plaintiff Elizabeth Munoz, *pro se*, filed an “Application for Leave to File Action Without Payment of Fees, Costs, or Security” (IFP Application). (Doc. 2, sealed.) After reviewing Plaintiff’s application, this Court entered an Order taking her request under advisement. (Doc. 3.) She was directed to supply the Court with supplemental financial information, clarification regarding her prior employment, and information regarding her three listed dependents. Plaintiff was also ordered to clarify her Complaint because it contains no factual basis under which the Court could find the existence of federal jurisdiction. *Id.*

Plaintiff was given until March 2, 2007, to provide the Court with the supplemental information and to clarify her Complaint. She was warned in no

uncertain terms that the Court would immediately recommend that her case be dismissed pursuant to 28 U.S.C. §1915(e)(2) if she failed to do so. This deadline passed and the Court received nothing from Plaintiff. She did, however, verbally request additional time from the Court in which to comply with the Court's Order. As a result, she was given until March 26, 2007, to do so. (Minute Entry, March 9, 2007.) She was again warned that failure to comply with the requirements of the Court's Order within the extended time could result in the recommendation that her case be dismissed. *Id.*

As of the date of this Order, some six weeks past the extended deadline, Plaintiff has failed to comply with the Court's February 14, 2007, Order to supplement her financial information and amend or supplement her Complaint. The Court, therefore, has no choice but to recommend that Plaintiff's Application for Leave to File Action Without Payment of Fees, Costs, or Security (Doc. 2), be denied.¹

IT IS THEREFORE RECOMMENDED that Plaintiff's Application for

¹ A United States Magistrate Judge, on a plaintiff's motion to proceed *in forma pauperis*, should issue a report and recommendation as to whether the plaintiff is entitled to IFP status, rather than denying motion outright, since denial would be the functional equivalent of involuntary dismissal. *Lister v. Department of Treasury*, 408 F.3d 1309, 1311-12 (10th Cir. 2005).

Leave to File Action Without Payment of Fees, Costs, or Security (Doc. 2), be
DENIED.

A copy of this recommendation shall be sent to Plaintiff *via* certified mail.
Pursuant to 28 U.S.C. §636(b)(1), Fed.R.Civ.P. 72, and D.Kan. Rule 72.1.4,
Plaintiff shall have ten (10) days after service of a copy of these proposed findings
and recommendations to serve and file with the U.S. District Judge assigned to the
case, her written objections to the recommendations of the magistrate judge. A
party's failure to file such written, specific objections within the ten-day period
will bar appellate review of the recommended disposition.

Dated at Wichita, Kansas, on this 22rd day of May, 2007.

s/ DONALD W. BOSTWICK
DONALD W. BOSTWICK
United States Magistrate Judge