

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 06-cv-01819-BNB

CHRISTOPHER GLENN DRAKE,

Plaintiff,

v.

BOULDER COUNTY JAIL (Heath [sic] Services),

Defendant.

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

OCT - 4 2006

GREGORY C. LANGHAM
CLERK

ORDER DIRECTING PLAINTIFF TO SUBMIT *IN FORMA PAUPERIS* MOTION

This matter is before the Court on the cover letter, Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915, and amended complaint submitted by Plaintiff Christopher Glenn Drake and filed with the Court on September 28, 2006. In the cover letter and amended complaint, Mr. Drake informs the Court that he no longer is incarcerated at the Boulder County, Colorado, jail, but rather currently is residing in Mead, Colorado.

Since Plaintiff has been released from custody, his continuing obligation to pay the filing fee is to be determined, like any nonprisoner, solely on the basis of whether he qualifies for *in forma pauperis* status. *See Whitney v. New Mexico*, 113 F.3d 1170, 1171 n.1 (10th Cir. 1997); *see also McGore v. Wrigglesworth*, 114 F.3d 601, 612-13 (6th Cir. 1997); *In re Prison Litigation Reform Act*, 105 F.3d 1131, 1138-39 (6th Cir. 1997); *McGann v. Commissioner, Soc. Sec. Admin.*, 96 F.3d 28, 29-30 (2d Cir. 1996).

Plaintiff will be directed to file a Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915. The clerk of the Court will be directed to mail to Plaintiff at his Mead, Colorado, address the proper forms for filing a Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915. Alternatively, Mr. Drake may elect to pay the \$350.00 filing fee in order to pursue his claims in this action. Accordingly, it is

ORDERED that Mr. Drake submit **within thirty (30) days from the date of this order** a Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915. Alternatively, Mr. Drake may elect to pay the \$350.00 filing fee in order to pursue his claims in this action. It is

FURTHER ORDERED that the Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 shall be filed with the Clerk of the Court for the United States District Court for the District of Colorado, Alfred A. Arraj U.S. Courthouse, 901 Nineteenth Street, Room A-105, Denver, Colorado 80294-3589. It is

FURTHER ORDERED that the clerk of the Court mail to Mr. Drake at his Mead, Colorado, address two copies of the following form: Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915. It is

FURTHER ORDERED that if Plaintiff fails to file a properly completed Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 **within thirty (30) days of the date of this order**, the amended complaint and the action will be dismissed without further notice.

DATED October 4, 2006, at Denver, Colorado.

BY THE COURT:

s/ Boyd N. Boland
United States Magistrate Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

CERTIFICATE OF MAILING

Civil Action No. 06-cv-01819-BNB

Christopher G. Drake
Reg. No. P00005995
P.O. Box 247
Mead, CO 80542

I hereby certify that I have mailed a copy of the **ORDER and two copies of the Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. §1915** to the above-named individuals on 10/4/06

GREGORY C. LANGHAM, CLERK

By: 

Deputy Clerk