

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Chief Judge Wiley Y. Daniel

Civil Action No. 06-cv-02525-WYD-MEH

RICHARD G. CHAVEZ,

Plaintiff,

v.

DARREN HATTERMAN, Adams County Deputy Sheriff, in his individual capacity;
ROBERT CORTEZ, Adams County Deputy Sheriff, in his individual capacity;
JOHN TOTTEN, Adams County Deputy Sheriff (Sgt.), in his individual capacity,

Defendants.

ORDER

THIS MATTER is before the Court on Plaintiff Richard Chavez's "Motion for Leave to Seek Appellate Review on Original Record and For Partial Transcripts to Be Provided by the United States" [doc. #279], filed June 17, 2009. Therein, Plaintiff requests leave to proceed on appeal pursuant to 28 U.S.C. § 1915 and Fed. R. App. P. 24. The motion will be granted in part and denied in part.

The Court has examined the file and finds that Plaintiff has shown an 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. Therefore, Plaintiff will be allowed to proceed on appeal pursuant to 28 U.S.C. § 1915(a) without prepayment of fees or security therefore. Based on the information about Plaintiff's financial status, the Court finds that Plaintiff is able to pay an initial partial filing fee of \$62.00 pursuant to § 1915(b)(1).

However, the Court finds that this appeal does not present a substantial question, i.e., a significant issue that is unique, unusual or reasonably debatable. Therefore, pursuant to 28 U.S.C. § 753(f), Plaintiff's request for a free transcript will be denied. Accordingly, it is

ORDERED that the Plaintiff Richard Chavez's "Motion for Leave to Seek Appellate Review on Original Record and For Partial Transcripts to Be Provided by the United States" [doc. #279], filed June 17, 2009, is **GRANTED in part and DENIED in part**. It is

FURTHER ORDERED that Plaintiff shall be allowed to proceed on appeal without prepayment of fees or security therefor. However, Plaintiff shall be required to pay the full amount of the \$455.00 filing fee in installments pursuant to § 1915(b)(1) regardless of the outcome of this appeal. It is

FURTHER ORDERED that Plaintiff shall pay an initial partial filing fee of \$62.00. Plaintiff shall have thirty (30) days from the date of this order in which to have the designated fee sent to the Clerk of the Court or show cause why he has no assets and no means by which to pay the designated initial partial filing fee. In order to show cause, Plaintiff must file a current certified copy of his trust fund account statement. It is

FURTHER ORDERED that the Clerk of the Court shall provide Plaintiff with two copies of this Order. Plaintiff is directed to make the necessary arrangements to have one copy of this Order attached to the payment in the amount of the designated initial partial filing fee. It is

FURTHER ORDERED that, after payment of the initial partial filing fee, Plaintiff shall be required to make monthly payments of twenty percent (20%) of the preceding month's

income credited to Plaintiff's account or show cause each month as directed above why he has no assets and no means by which to make the monthly payment. Plaintiff is directed to make the necessary arrangements to have each monthly payment identified by the civil action number on this Order. It is

FURTHER ORDERED that if within the time allowed Plaintiff fails to have the designated initial partial filing fee or monthly payments sent to the Clerk of the Court or to show cause as directed above why he has no assets and no means by which to pay the designated initial partial filing fee or make the monthly payments, the court of appeals will be so notified. It is

FURTHER ORDERED that Plaintiff's request for a free transcript is **DENIED** because the Court finds that this appeal does not present a substantial question. Plaintiff may pay the estimated transcript fee in advance or make his own arrangements with the court reporter to pay for the cost of the transcript.

Dated: July 6, 2009

BY THE COURT:

s/ Wiley Y. Daniel
Wiley Y. Daniel
Chief United States District Judge