

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Magistrate Judge Kathleen M. Tafoya

Civil Action No. 07-cv-00872-WYD-KMT

ELI ANDRADE,

Plaintiff,

v.

DAVID OBA, Doctor,
LOUIS CAIBILIN, Doctor,
KIM COLLEYSMORE, N.P.,
JUDY BRIZENDINE, H.S.A, and
SUTTON, Doctor,

Defendants.

ORDER

This matter is before the court on Plaintiff's "Motion Regarding Incurring Expense in Case #07-cv00872WYDKMT" (Doc. No. 111, filed March 26, 2009). At the time Plaintiff initiated the instant action, he was in the custody of the Colorado Department of Corrections. Plaintiff is no longer incarcerated. He requests six months to "try to make the payments required."

Plaintiff's 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). Accordingly, it is

ORDERED that Plaintiff submit, **no later than June 12, 2009**, an Amended Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915. Alternatively, Plaintiff may elect to pay the \$350.00 filing fee to pursue his claims in this action. It is

FURTHER ORDERED that the Clerk of the Court mail to Plaintiff, together with a copy of this Order, two copies of the Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 form, used by nonprisoners in submitting requests to proceed pursuant to § 1915. It is

FURTHER ORDERED that if Plaintiff fails to comply with this Order by June 12, 2009, the Court may recommend dismissal of this action without further notice. It is

FURTHER ORDERED that the “Motion Regarding Incurring Expense in Case #07-cv00872WYDKMT” (Doc. No. 111) is DENIED.

Dated this 14th day of May, 2009.

BY THE COURT:



Kathleen M. Tafoya
United States Magistrate Judge