

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 08-cv-00667-MSK-KLM

SIRRLOVE WILLIAMS,

Plaintiff,

v.

MAJOR DIGGINS,
MAJOR CONNORS,
SGT. DAUGHTRIE.

Defendants.

ORDER

ENTERED BY MAGISTRATE JUDGE KRISTEN L. MIX

This matter is before the Court on the Court's **Order Directing Plaintiff to Make Monthly Filing Fee Payment or to Show Cause** [Docket No. 109; Filed January 4, 2010] (the "Order"). Plaintiff responded [Docket No. 112; Filed January 11, 2010].

28 U.S.C. § 1915(b)(2) requires that a prisoner "shall make monthly payments of 20 percent of the preceding month's income credited to the prisoner's account," provided that the prisoner's account exceeds \$10.00. If he is unable to make a payment, he may file a certified copy of his inmate trust fund account statement for that month demonstrating that he is not required pursuant to 28 U.S.C. § 1915(b)(2) to make a monthly payment. Plaintiff failed to make his monthly payments towards his filing fee or show cause why he could not do so for the months of September, October, and November. His monthly payment or filing to show cause why he could not make a payment for the month of December was due January 15, 2010. Accordingly, in the Order, Plaintiff was directed to either make the

required monthly payments for **September, October, November, and December** or show cause why he could not on or before January 15, 2010.

In response, Plaintiff filed a certified copy of his inmate trust fund account statement showing that he had a negative balance as of November 23, 2009 [Docket No. 112]. The Court accepts that Plaintiff has shown cause why he was unable to make a payment for the month of November. On February 12, 2010, Plaintiff filed a certified copy of his inmate trust fund account statement showing that he had a negative balance as of January 9, 2010 and February 9, 2010 [Docket No. 123]. Although the statement for December was not timely filed, the Court will accept that Plaintiff has showed cause why he was unable to make a payment for December and January.

In three other cases before this Court, Civil Action Nos. 09-cv-01661-MSK-KLM, 09-cv-01785-MSK-KLM, and 09-cv-01786-MSK-KLM, Plaintiff filed certified copies of his inmate trust fund account statements showing that he had a negative balance as of October 2, 2009 and as of November 2, 2009 [Docket No. 30]. Plaintiff therefore showed cause why he was unable to make payments for the months of September and October *for those cases*. However, no document showing Plaintiff's balance in his income trust fund account in September and October was filed in the instant action. Plaintiff is therefore directed to file in this case a certified copy of his income account trust fund statement, showing his negative balances for the months of September and October. Plaintiff must clearly mark each document with the case number(s) of the case in which he wishes the document to be filed in order to ensure that the proper documents get filed in the proper case.

Plaintiff is strongly cautioned that on or before the 15th of every month, Plaintiff must

make his monthly payments for the previous month or show cause why he cannot do so by filing a certified income trust account statement. Plaintiff must meet his obligation every month. Furthermore, Plaintiff must make the appropriate filing in every case which he currently has before the Court.

Accordingly,

IT IS HEREBY **ORDERED** that the Order to Show Cause is **DISCHARGED**.

IT IS FURTHER **ORDERED** that Plaintiff shall file his certified income account statement showing cause why he was unable to make his monthly payment for the months of **September and October** on or before **March 15, 2010**.

Plaintiff remains obligated to make a monthly payment towards his filing fee or show cause every month why he is unable to do so by filing a certified copy of his income trust fund account statement. For example, his monthly payment for **February** or certified income trust fund account statement for the month of February, showing cause why he cannot make a payment, remains due on or before **March 15, 2010**.

DATED: February 26, 2010.

BY THE COURT:

s/ Kristen L. Mix
Kristen L. Mix
United States Magistrate Judge