

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 08-cv-01233-CMA-CBS

LEROY DAMASIO FRESQUEZ,
Plaintiff,
v.

DEPUTY BALDWIN, Jefferson County Sheriff,
CORRECTIONAL HEALTHCARE MANAGEMENT,
NURSE KRISTEN (LAST NAME UNKNOWN), CHM,
NURSE VICKY (LAST NAME UNKNOWN), CHM,
NURSE TRACY (LAST NAME UNKNOWN), CHM,
NURSE TATIANA (LAST NAME UNKNOWN), CHM,
NURSE SHERLY (LAST NAME UNKNOWN), CHM, and
NURSE BARB (LAST NAME UNKNOWN), CHM,
Defendants.

ORDER DIRECTING PLAINTIFF TO MAKE
MONTHLY FILING FEE PAYMENTS OR TO SHOW CAUSE

Magistrate Judge Craig B. Shaffer

By an Order entered June 23, 2008 (doc. # 8), Mr. Fresquez was granted leave to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915. Pursuant to § 1915(b)(2), Mr. Fresquez is required to make “monthly payments of 20 percent of the preceding month’s income credited to his account” until the filing fee is paid in full. In the Order granting him leave to proceed *in forma pauperis*, Mr. Fresquez was instructed either to make the required monthly payments or to show cause each month why he has no assets and no means by which to make the monthly payment. (See doc. # 8 at p. 2 of 4). In order to show cause, Mr. Fresquez was directed to file a current certified copy of his inmate trust fund account statement. (See *id.*). Mr. Fresquez was warned that failure to comply with the requirements of § 1915(b)(2) would result in the dismissal of

this civil action. (*See id.*).

Mr. Fresquez has failed to make the required monthly payments or show cause why he has no assets and no means by which to make the monthly payments for the months of November 2008 through December 2009, February and March 2010, and May through November 2010. Mr. Fresquez has thus failed to make twenty three required monthly payments or show cause why he has no assets and no means by which to make those twenty three monthly payments. Therefore, Mr. Fresquez will be ordered either to make the required monthly payments or to show cause why he cannot.

It is not acceptable for Mr. Fresquez to meet his monthly obligations only when specifically called upon by the court through an order to pay or show cause. Such a procedure unreasonably burdens the court. Mr. Fresquez is required, by the 15th day of each month and without any further notice from or order of the court, either to make the required monthly payment for each preceding month or to file a current certified copy of his inmate trust fund account statement for the preceding month demonstrating that he has no assets and no means by which to make the monthly payment. If Mr. Fresquez fails hereafter to comply with this requirement in any month prior to the date on which the filing fee is paid in full, the court may recommend that the case be dismissed for failure to comply with this Order and with the Order allowing him to proceed *in forma pauperis* and directing him to make monthly filing fee payments (doc. # 8).

Accordingly, IT IS ORDERED that:

1. On or before **December 15, 2010**, Mr. Fresquez shall either make the

required monthly payments for the months of November 2008 through December 2009, February and March 2010, and May through November 2010 or show cause for his inability to pay in those months. In order to show cause, Mr. Fresquez must file a certified copy of his trust fund account statement for each month.

2. By the **15th day of each** month hereafter Mr. Fresquez shall either make the required monthly payment for each month or file a certified copy of his inmate trust fund account statement for the month demonstrating that he is not required pursuant to 28 U.S.C. § 1915(b)(2) to make a monthly payment.

3. The civil action number should be noted on all payments as well as on any trust fund statements that are filed with the court.

4. If Mr. Fresquez fails to comply with this Order, the court may recommend that this civil action be dismissed without further notice.

DATED at Denver, Colorado this 15th day of November, 2010.

BY THE COURT:

s/Craig B. Shaffer
United States Magistrate Judge