

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 09-cv-00640-BNB

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

MARK EUGENE HOWARD,

JUL 02 2009

Plaintiff,

GREGORY C. LANGHAM
CLERK

v.

THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF LAS ANIMAS
IN THE STATE OF COLORADO,
LAS ANIMAS COUNTY SHERIFF [sic] OFFICE,
LAS ANIMAS COUNTY SHERIFF JAMES R. CASIAS,
LAS ANIMAS COUNTY UNDERSHERIFF DEREK NAVARETTE,
LAS ANIMAS COUNTY OFFICE OF THE COUNTY ATTORNEY,
LAS ANIMAS COUNTY ATTORNEY MARY D. NEWNAM,
JESSIE MANZANARES, Attorney,
TIMOTHY P. SCHIMBERG, Attorney,
FOWLER, SCHIMBERG, FLANAGAN, P.C.,
JONATHAN CROSS, Attorney,
SEAN LANE, Attorney,
CROSS AND LANE, P.C., and
COUNTY TECHNICAL SERVICES INCORPORATED,

Defendants.

ORDER DIRECTING PLAINTIFF TO SUBMIT AMENDED MOTION
FOR LEAVE TO PROCEED PURSUANT TO 28 U.S.C. § 1915

This matter is before the Court on the notice of change of address that Plaintiff, Mark Eugene Howard, submitted to the Court on June 30, 2009. Although it only lists an address with a post office box, the notice appears to indicate that Mr. Howard has been released from the El Paso County Detention Facility in Colorado Springs, Colorado, where he was incarcerated when he initiated the instant action.

Mr. Howard's continuing obligation to pay the filing fee is to be determined, like any non-prisoner, 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). Therefore, Mr. Howard will be ordered to submit an Amended Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915. Accordingly, it is

ORDERED that Plaintiff, Mark Eugene Howard, submit, **within thirty 30 days from the date of this order**, an Amended Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915. It is

FURTHER ORDERED that the amended motion shall be titled, "Amended Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915," and shall be filed with the Clerk of the Court for the United States District Court for the District of Colorado at the 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. Howard, together with a copy of this order, 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 Mr. Howard fails to submit, **within thirty days from the date of this order**, an Amended Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915, or in the alternative to pay the balance due on the

\$350.00 filing fee, the action will be dismissed without prejudice and without further notice.

DATED at Denver, Colorado, this 2nd day of July, 2009.

BY THE COURT:

s/Craig B. Shaffer
Craig B. Shaffer
United States Magistrate Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

CERTIFICATE OF MAILING

Civil Action No. 09-cv-00640-BNB

Mark Eugene Howard
P.O. Box 6281
Colorado Springs, CO 80934-6281

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 7/2/09

GREGORY C. LANGHAM, CLERK

By: 

Deputy Clerk