

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 09-cv-01687-BNB

JAMES R. SARDAKOWSKI,

Plaintiff,

v.

GARY MORGEN, and
J. WILLEY,

Defendants.

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

JUL 27 2009

GREGORY C. LANGHAM
CLERK

ORDER GRANTING 28 U.S.C. § 1915 MOTION

Plaintiff, James R. Sardakowski, is a prisoner in the custody of the Colorado Department of Corrections at the Sterling Correctional Facility in Sterling, Colorado. Mr. Sardakowski has filed *pro se* a Prisoner Complaint and a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915. The Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 will be granted. Based on the information about his financial status, the court finds that Mr. Sardakowski is unable to pay an initial partial filing fee pursuant to § 1915(b)(1).

Title 28 U.S.C. § 1915 requires a prisoner bringing a civil action "to pay the full amount of a filing fee." 28 U.S.C. § 1915(b)(1). If a prisoner is unable to afford the full amount of the filing fee when the case is filed, the statute provides for payment of the filing fee through an initial partial filing fee and monthly installments of the balance until the full filing fee is paid. However, "[i]n no event shall a prisoner be prohibited from bringing a civil action or appealing a civil or criminal judgment for the reason that the

prisoner has no assets and no means by which to pay the initial partial filing fee.”

28 U.S.C. § 1915(b)(4).

Mr. Sardakowski may proceed in this action without payment of an initial partial filing fee. However, although he need not pay an initial partial filing fee, Mr. Sardakowski remains obligated to pay the required \$350.00 filing fee through monthly installments as directed in this order. Accordingly, it is

ORDERED that the Prisoner’s Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 filed on July 9, 2009, is granted. It is

FURTHER ORDERED that Mr. Sardakowski may proceed in this action without payment of an initial partial filing fee. Mr. Sardakowski remains obligated to pay the full amount of the required \$350.00 filing fee pursuant to § 1915(b)(1) regardless of the outcome of this action. It is

FURTHER ORDERED that, until the \$350.00 filing fee is paid in full, Mr. Sardakowski shall make monthly payments to the court of twenty (20) percent of the preceding month’s income credited to his account or show cause why he has no assets and no means by which to make each monthly payment. Mr. Sardakowski is directed to make the necessary arrangements to have the monthly payments identified by the civil action number on this order. In order to show cause, Mr. Sardakowski must file a current certified copy of his trust fund account statement. It is

FURTHER ORDERED that if Mr. Sardakowski fails to have the appropriate monthly payment sent to the clerk of the court each month or to show cause each month as directed above why he has no assets and no means by which to make the

monthly payment, the complaint may be dismissed without prejudice and without further notice. It is

FURTHER ORDERED that process shall not issue until further order of the court.

DATED at Denver, Colorado, this 27th 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-01687-BNB

James R. Sardakowski
Prisoner No. 133162
Sterling Correctional Facility
PO Box 6000
Sterling, CO 80751

I hereby certify that I have mailed **ORDER** to the above-named individuals on

7/27/09

GREGORY C. LANGHAM, CLERK

By: _____

Deputy Clerk