

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 09-cv-02199-BNB

MICHAEL CORBELLO, and  
ALBERT REYNOLDS,

Plaintiffs,

v.

BUREAU OF PRISONS, North Central Region,  
WARDEN REVILLE,  
CAPT. HARMON,  
SIA VANIC,  
LT. HENDERSON,  
M. BARKER, Unit Manager,  
MS. WILNER, Unit Manager, and  
COUNSELOR SAMS,

Defendants.

**FILED**  
UNITED STATES DISTRICT COURT  
DENVER, COLORADO

NOV 13 2009

GREGORY C. LANGHAM  
CLERK

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ORDER ALLOWING PLAINTIFF TO PROCEED  
WITHOUT PAYMENT OF INITIAL PARTIAL FILING FEE

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In an order filed on October 26, 2009, the court granted Plaintiffs leave to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915. Pursuant to § 1915(b)(1), the court ordered Plaintiff Albert Reynolds either to pay an initial partial filing fee of \$2.00 or to show cause why he has no assets and no means by which to pay the designated initial partial filing fee. On November 12, 2009, Mr. Reynolds submitted a certified copy of his inmate trust fund account statement showing that the current balance in his inmate account as of November 5, 2009, is \$0.03. The affidavit Mr. Reynolds previously submitted in support of his motion seeking leave to proceed *in forma pauperis* reveals no other assets.

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 action 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).

Because he has demonstrated that he has no assets and no means by which to pay the initial partial filing fee, Mr. Reynolds will be allowed to proceed in this action without payment of the initial partial filing fee designated in the court’s October 26 order. The court will proceed to review the second amended complaint pursuant to § 1915(e)(2)(B). However, although Plaintiffs have been allowed to proceed without payment of any initial partial filing fees, they remain obligated to pay the full \$350.00 filing fee through monthly installments as directed in the court’s October 26 order and reiterated below. Accordingly, it is

ORDERED that Plaintiff Albert Reynolds may proceed in this action without payment of the initial partial filing fee designated in the court’s October 26, 2009, order because he has shown cause why he has no assets and no means by which to pay an initial partial filing fee. Plaintiffs remain obligated to pay the full amount of the required \$350.00 filing fee pursuant to § 1915(b)(1). It is

FURTHER ORDERED that until the \$350.00 filing fee is paid in full, Plaintiffs shall make monthly payments to the court of twenty (20) percent of the preceding

month's income credited to their accounts or show cause why they have no assets and no means by which to make each monthly payment. Plaintiffs are 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, each Plaintiff must file a current certified copy of his trust fund account statement. It is

FURTHER ORDERED that if either Plaintiff fails to have the appropriate 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 the court may dismiss this action and may apply all or part of the filing fee payments tendered in this action to satisfy any filing fee debt the plaintiffs may owe in a prior action or actions if the plaintiffs fail to stay current with their payment obligations in the prior action or actions.**

DATED November 13, 2009, at Denver, Colorado.

BY THE COURT:

s/ Boyd N. Boland  
United States Magistrate Judge

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

**CERTIFICATE OF MAILING**

Civil Action No. 09-cv-02199-BNB

Michael Corbello  
Reg No. 12702-078  
US Penitentiary Florence  
P.O. Box 7000  
Florence, CO 81226

Albert Reynolds  
Reg No. 31647-074  
US Penitentiary Florence  
P.O. Box 7000  
Florence, CO 81226

I hereby certify that I have mailed a copy of the **ORDER** to the above-named individuals on 11/13/09

GREGORY C. LANGHAM, CLERK

By: 

Deputy Clerk