

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 09-cv-02907-BNB

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

MIGUEL ANGEL PUENTES-ROSABAL,

FEB 05 2010

Plaintiff,

GREGORY C. LANGHAM
CLERK

v.

JOHN W. SUTHERS, Attorney General, In his Personal and Official Capacity as
Attorney General,

DAVID R. FINE, Denver City Attorney, In his Personal and Official Capacity as Denver
City Attorney,

THE CITY AND COUNTY OF DENVER, A Municipal Corporation and as a County,
MITCHELL MORRISSEY, District Attorney for the Second Judicial District in Denver, In
his Personal and Official Capacity,

JOSEPH MORALES, Deputy District Attorney for the Second Judicial District in Denver,
In his Personal and Official Capacity, and

DANIEL CHUN, Investigator for the District Attorney for the Second Judicial District, In
his Personal and Official Capacity,

Defendants.

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

At the time the Plaintiff initiated this action, he was detained at the Denver County Jail in Denver, Colorado. On January 19, 2010, Plaintiff submitted several documents in which he noted that he no longer is incarcerated and is residing in Denver, Colorado.

Plaintiff's continuing obligation to pay the filing fee is to be determined, like any nonprisoner, 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, Plaintiff will be ordered to submit an Amended Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915. Alternatively, Plaintiff may elect to pay the \$350.00 filing fee to pursue his claims in this action. Accordingly, it is

ORDERED that within thirty days from the date of this Order Plaintiff submit to the Court an Amended Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915. Alternatively, Mr. Rosabal may elect to pay the \$350.00 filing fee to pursue his claims in this action. It is

FURTHER ORDERED that the Clerk of the Court mail to Plaintiff, together with a copy of this Order, two copies of the Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 form used by nonprisoners in submitting requests to proceed pursuant to § 1915. It is

FURTHER ORDERED that if Plaintiff fails to comply with the instant Order, within thirty days of the date of the Order, the Complaint and action will be dismissed without further notice.

DATED February 5, 2010, 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-02907-BNB

Miguel A. Puentes-Rosabal
18404 E. Kepner Pl.
Apt #104
Aurora, CO 80017

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 2/5/10

GREGORY C. LANGHAM, CLERK

By 

Deputy Clerk