

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 10-cv-00395-BNB

RAHEEM DAVIS,

Plaintiff,

v.

FEDERAL BUREAU OF PRISONS, et al.,
WARDEN DANIELS,
A/W HALLAND,
A/W MILUSNIC,
DR. ZONNO,
DR. CARTER,
H/A KALLAR,
UNIT MANAGER GOMAZ,
E. REICHERT (C.F.N.P.),
D.H.O. GIO RAMIREZ,
CASE MANAGER MILLER,
S.I.A. BROWN,
COUNSELOR J. O'NIEL,
LT. VAILPANDO,
LT. VIGIL,
LT. BANUELOS,
LT. LINCOLN, and
LT. WELLES,
(Individual Capacity, Official Capacity),

Defendants.

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

APR 20 2010

GREGORY C. LANGHAM
CLERK

ORDER OF DISMISSAL

Plaintiff, Raheem Davis, is a prisoner in the custody of the United States Bureau of Prisons (BOP) who currently is incarcerated at the United States Penitentiary in Florence, Colorado. He submitted to the Court *pro se* a Prisoner Complaint. On March 11, 2010, in response to an order to cure dated February 23, 2010, Mr. Davis submitted a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915.

On March 15, 2010, Magistrate Judge Boyd N. Boland granted the § 1915 motion, required Mr. Davis to pay the full amount of the \$350.00 filing fee in installments, and directed him to pay an initial partial filing fee of \$4.00 within thirty days or to show cause why he has no assets and no means by which to pay the designated initial partial filing fee. In the order to show cause, Mr. Davis was informed that he must file a current copy of his trust fund account statement. The March 15 order warned Mr. Davis that his failure by the designated deadline to pay the \$4.00 initial partial filing fee or to show cause why he has no assets and no means by which to pay the initial partial filing fee would result in dismissal of the complaint without further notice. The March 15 order also informed Mr. Davis that, after payment of the initial partial filing fee, he was required to make monthly payments of twenty percent of the preceding month's income credited to his trust fund account or show cause each month why he had no assets and no means by which to make the monthly payment by filing a current copy of his trust fund account statement.

Mr. Davis has failed within the time allowed to pay the \$4.00 initial partial filing fee or to show cause as directed. On March 23, 2010, he filed a document titled "Declaration and Order" in which he asked the Court to direct the BOP to withdraw \$30.00 every three months to pay down his \$350.00 filing fee. However, Mr. Davis' suggested payment plan fails to comply with the procedure for paying the initial partial filing fee and for making monthly payments outlined in the March 15 order. Also on March 23, he filed a document titled "Declaration," in which he referred to a trust fund account statement filed separately on the same day that he believed showed he only had a trust fund account balance of \$1.44. The copy of his trust fund account

statement filed on March 23 showed that Mr. Davis had a balance of \$54.64 in his trust fund account, more than enough to pay the \$4.00 filing fee.

Because Mr. Davis has failed within the time allowed to pay the \$4.00 initial partial filing fee or to show cause as directed why he is unable to do so, the complaint and the action will be dismissed. Accordingly, it is

ORDERED that the Prisoner Complaint and the action are dismissed without prejudice for the failure of Plaintiff, Raheem Davis, within the time allowed, to pay the initial partial filing fee of \$4.00 or to show cause as directed why he has no assets and no means by which to pay the designated initial partial filing fee. It is

FURTHER ORDERED that the "Motion for Court Order" filed on March 17, 2010, in which he asks for the restoration of his privileges, is denied as moot.

DATED at Denver, Colorado, this 20th day of April, 2010.

BY THE COURT:

s/Philip A. Brimmer
PHILIP A. BRIMMER
United States District Judge, for
ZITA LEESON WEINSHIENK, Senior Judge
United States District Court

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

CERTIFICATE OF MAILING

Civil Action No. 10-cv-00395-BNB

Raheem Davis
Reg No. 58146-054
US Penitentiary Florence
P.O. Box 7000
Florence, CO 81226

I hereby certify that I have mailed a copy of the **ORDER AND JUDGMENT** to the above-named individuals on 4/20/10

GREGORY C. LANGHAM, CLERK

By: _____

Deputy Clerk