

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 10-cv-01150-BNB

JEFFREY STACKER,

Plaintiff,

v.

ERIC HOLDER, Attorney General of the U.S.A.,  
UNITED STATES BUREAU OF PRISONS et al.,  
RICHARD W. SCHOTT, Regional Counsel, B.O.P.,  
JULIE WANDS, Warden, FCI Florence,  
DR. DEGOOT, Medical Provider, B.O.P.,  
P.A. RITTER, Public Health Service,  
DR. DREW RITTER, Medical Provider, B.O.P.,  
P.A. VINEYARD, B.O.P. Physician Assistant, and  
JOHN AND JANE DOE, et al.,

Defendants.

FILED  
UNITED STATES DISTRICT COURT  
DENVER, COLORADO

JUN 30 2010

GREGORY C. LANGHAM  
CLERK

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

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At the time Plaintiff Jeffrey Stacker initiated the instant action, he was in the custody of the United States Bureau of Prisons and was incarcerated at the Federal Correctional Institution in Florence, Colorado. On June 16, 2010, Mr. Stacker paid an initial partial filing fee and submitted to the Court a Letter in which he states that he would be released from the prison on May 26, 2010.

If Mr. Stacker has been released his 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, Mr. Stacker will be ordered to submit an Amended Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915. Alternatively, Mr. Stacker may elect to pay the remaining balance of \$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 Mr. Stacker submit to the Court an Amended Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915. Alternatively, Mr. Stacker 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 Mr. Stacker, 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 Mr. Stacker 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 at Denver, Colorado, this 30<sup>th</sup> day of June, 2010.

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. 10-cv-01150-BNB

Jeffrey Stacker  
Reg No. 05626-051  
FCI - Florence  
P.O. Box 6000  
Florence, CO 81226

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 6/30/10

GREGORY C. LANGHAM, CLERK

By: 

Deputy Clerk