Stacker v. Holder et al Doc. 5

## IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLORADO

Civil Action No. 10-cv-01150-BNB

JEFFREY STACKER,

Plaintiff,

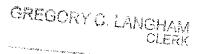
V.

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.

UNITED STATES DISTRICT COURT
DENVER, COLORADO

JUN 3 0 2010



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

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 30th day of June, 2010.

BY THE COURT:

s/Craig B. Shaffer

Craig B. Shaffer

United States Magistrate Judge

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## 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 600 100

GREGORY C, LANGHAM, CLERK

Leputy Clerk