

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

**FILED**  
UNITED STATES DISTRICT COURT  
DISTRICT OF COLORADO

JUN 2 - 2010

Civil Action No. 10 - CV - 01268 BNB

GREGORY C. LAWRENCE HAM  
CLERK

(The above civil action number must appear on all future papers sent to the court in this action. Failure to include this number may result in a delay in the consideration of your claims.)

RAUL MARQUEZ, DOC #101144,

Plaintiff,

v.

ARISTEDES W. ZAVARAS, Executive Director, CDOC,  
JOE ORTIZ, Executive Director, Years 2004-05,  
SUSAN JONES, Warden, Colorado State Penitentiary, and  
LARRY REID, Warden, 2004-05,

Defendants.

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**ORDER DIRECTING CLERK TO COMMENCE CIVIL ACTION AND GRANTING  
PLAINTIFF LEAVE TO PROCEED PURSUANT TO 28 U.S.C. § 1915**

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Plaintiff, Raul Marquez, is a prisoner in the custody of the Colorado State Penitentiary in Canon City, Colorado. Mr. Marquez has filed *pro se* a "Motion Appoint Counsel for All Cases," a Prisoner Complaint and a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915. As part of the court's review pursuant to D.C.COLO.LCivR 8.2, the court has determined that the submitted documents are in proper form. The clerk of the court will be directed to commence a civil action. The Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 will be granted. Based on the information about his financial status, the court finds that Mr. Marquez is unable to pay an initial partial filing fee pursuant to § 1915(b)(1).

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 case 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).

Mr. Marquez may proceed in this action without payment of an initial partial filing fee. However, although he need not pay an initial partial filing fee, Mr. Marquez remains obligated to pay the required \$350.00 filing fee through monthly installments as directed in this order. Accordingly, it is

ORDERED that the clerk of the court commence this civil action. It is

FURTHER ORDERED that the Prisoner’s Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 filed on May 24, 2010, is granted. It is

FURTHER ORDERED that Mr. Marquez may proceed in this action without payment of an initial partial filing fee. Mr. Marquez remains obligated to pay the full amount of the required \$350.00 filing fee pursuant to § 1915(b)(1) regardless of the outcome of this action. It is

FURTHER ORDERED that, until the \$350.00 filing fee is paid in full, Mr. Marquez shall make monthly payments to the court of twenty (20) percent of the preceding month’s income credited to his account or show cause why he has no assets and no means by which to make each monthly payment. Mr. Marquez is 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, Mr. Marquez must file a current certified copy of his trust fund account statement. It is

FURTHER ORDERED that if Mr. Marquez fails to have the appropriate monthly 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 process shall not issue until further order of the court.

DATED at Denver, Colorado, this 28<sup>th</sup> day of May, 2010.

BY THE COURT:

  
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BOYD N. BOLAND  
United States Magistrate Judge

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

CERTIFICATE OF MAILING

Civil Action No. 10 - CV - 01268

Raul Marquez  
Prisoner No. 101144  
Colorado State Penitentiary  
P.O. Box 777  
Cañon City, CO 81215- 0777

I hereby certify that I have mailed a copy of the **ORDER** to the above-named individuals on 6/2/10

GREGORY C. LANGHAM, CLERK

By: 

Deputy Clerk