

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 10-cv-01774-BNB

EYOEL DAWIT MATIOS, Authorized Representative for
EYOEL DAWIT MATIOS©,

Plaintiff,

v.

LARIMER COUNTY JUSTICE CENTER,
SHERLY K. SAMPSON, Clerk of the Court,
STUART A. VANMEVEREN, Prosecuting Attorney,
J. ANDREW TAYLOR #28855, Prosecuting Attorney, and
TERENCE A. GILMORE, Prosecuting Judge,

Defendants.

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

AUG 20 2010

GREGORY C. LANGHAM
CLERK

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

At the time Plaintiff, Eyoel Dawit Matios, initiated the instant action, he was incarcerated at the Crowley County Correctional Facility in Olney Springs, Colorado. Plaintiff was granted leave to proceed *in forma pauperis* by order dated August 10, 2010. The August 10 Order also required Mr. Matios to pay an initial partial filing fee of \$9.00 pursuant to 28 U.S.C. § 1915(b)(1). However, on August 18, 2010, Plaintiff submitted to the Court a Notice of Change of Address indicating that he is no longer incarcerated and is now residing in Aurora, 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 on the form used by non-prisoners. 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, Plaintiff 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 non-prisoners 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 August 20, 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. 10-cv-01774-BNB

Eyoel Dawit Matios
668 South Oswego Court
Aurora, CO 80012

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 8/20/10

GREGORY C. LANGHAM, CLERK

By: 

Deputy Clerk