

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 10-cv-02170-BNB

MICHAEL LEE COTTON,

Plaintiff,

v.

LT. BRANDT,  
STATE OF COLORADO,  
CRIMINAL JUSTICE CENTER, and  
CRIMINAL JUSTICE CENTER MAILROOM,

Defendants.

**FILED**  
UNITED STATES DISTRICT COURT  
DENVER, COLORADO

SEP 21 2010

GREGORY C. LANGHAM  
CLERK

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ORDER ALLOWING PLAINTIFF TO PROCEED  
WITHOUT PAYMENT OF INITIAL PARTIAL FILING FEE

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In an order filed on September 7, 2010, the court granted Plaintiff leave to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915. Pursuant to § 1915(b)(1), the court ordered Plaintiff either to pay an initial partial filing fee of \$14.00 or to show cause why he has no assets and no means by which to pay the initial partial filing fee. On September 20, 2010, Plaintiff submitted a certified copy of his inmate trust fund account statement that shows the balance in his inmate account as of August 23, 2010, is \$0.42. Although the latest balance on the account statement predates the court's September 7 order, the account statement itself was printed on September 14, 2010, and certified by a jail official on September 15, 2010. The affidavit Plaintiff previously submitted in support of his motion seeking leave to proceed *in forma pauperis* reveals no other assets.

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). 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). Therefore, because he has demonstrated that he has no assets and no means by which to pay the initial partial filing fee, Plaintiff will be allowed to proceed in this action without payment of the initial partial filing fee designated in the court’s September 7 order. Plaintiff remains obligated to pay the full \$350.00 filing fee through monthly installments as directed in the court’s September 7 order and reiterated below. Accordingly, it is

ORDERED that Plaintiff may proceed in this action without payment of the initial partial filing fee designated in the court’s September 7, 2010, order because he has shown cause why he has no assets and no means by which to pay an initial partial filing fee. Plaintiff remains obligated to pay the full amount of the required \$350.00 filing fee pursuant to § 1915(b)(1). It is

FURTHER ORDERED that until the \$350.00 filing fee is paid in full, Plaintiff 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. Plaintiff 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, Plaintiff must file a current certified copy of his trust fund account statement. It is

FURTHER ORDERED that if Plaintiff fails to have the appropriate 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 the court may dismiss this action and may apply all or part of the filing fee payments tendered in this action to satisfy any filing fee debt the plaintiff may owe in a prior action or actions if the plaintiff fails to stay current with his payment obligations in the prior action or actions.**

DATED September 21, 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-02170-BNB

Michael Lee Cotton  
Prisoner No. A0266244  
Criminal Justice Center  
2739 E. Las Vegas St.  
Colorado springs, CO 80906

I hereby certify that I have mailed a copy of the **ORDER** to the above-named individuals on 9/21/10

GREGORY C. LANGHAM, CLERK

By: 

Deputy Clerk