

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge William J. Martínez**

Civil Action No. 11-cv-00136-WJM-BNB

RICHARD J. LYNN,

Plaintiff,

v.

W. COX, SIS Investigator,
J. BOLEY, Unit Manager,
J. CAREY, Disciplinary Hearing Officer,
R. SHANK, Staff Representative,
R. WILEY, Warden, ADX,
B. DAVIS, Warden, ADX,
J. FOX, Associate Warden, ADX,
J. JONES, Associate Warden, ADX,
M. COLLINS, Unit Manager, ADX,
P. RANGEL, Unit Manager, ADX,
A. FENLON, Case Manager,
T. JOHNS, Warden USP-1 Coleman, FL,
R. BURTON, Associate Warden, USP-1 Coleman, FL, and
O. BARAT, Captain, USP-1 Coleman, FL,

Defendants.

ORDER ON MOTION FOR ORDER TO CORRECT THE RECORD

THIS MATTER is before the Court on Plaintiff's Motion for Order to Correct the Record, ECF No. 30, filed on September 9, 2011. Plaintiff requests the Court clarify whether Plaintiff has been granted leave to proceed *in forma pauperis*. To the extent conflicting orders have been issued, the Court herein wishes to correct the record.

In Plaintiff's Motion, he correctly states that on July 15, 2011, the Court granted Plaintiff leave to proceed *in forma pauperis*, but that on August 26, 2011, Plaintiff's Motion for Appointment of Counsel was denied because "[t]he plaintiff is not proceeding

in forma pauperis under 28 U.S.C. § 1915.” (ECF No. 30; see also Order Granting Service, ECF No. 16; Order Denying Mtn. to Appoint Counsel, ECF No. 29 at n.1.)

Pursuant to 28 U.S.C. § 1915, a prisoner may be granted leave by the court to proceed *in forma pauperis* in a civil action when not able to afford the initial filing fee. See 28 U.S.C. § 1915. In the instant case, Plaintiff payed the court’s \$350 filing fee on the same date as he filed the Complaint, indicating to the Court that he did not intend to proceed *in forma pauperis*.

In its Order Granting Service, the Court erroneously granted Plaintiff leave to proceed *in forma pauperis*. Accordingly, the Court hereby GRANTS Plaintiff’s Motion for Order to Correct the Record, ECF No. 30. The Court ORDERS as follows:

- 1) That portion of the Order Granting Service granting Plaintiff leave to proceed *in forma pauperis*, ECF No 16, be RESCINDED; and
- 2) The Clerk shall send to Plaintiff an application to proceed *in forma pauperis* so that an accurate determination may be made by the United States Magistrate Judge.

Dated this 16th day of September, 2011.

BY THE COURT:



William J. Martinez
United States District Judge