

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

AUG 17 2011

GREGORY C. LANGHAM
CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 11-cv-01695-BNB

PEDRO NIVAL,

Plaintiff,

v.

COLORADO DEPARTMENT OF CORRECTIONS/EXECUTIVE DIRECTOR TOM
CLEMENTS, et al.,
CROWLEY COUNTY CORRECTION [sic] FACILITY WARDEN RICHARD SMELSER,
et al.,
CCCF CLINICAL SERVICES DIRECTOR JUDY BREZINDINE,
CCCF HMO PROVIDER DR. JERE SUTTON,
CCCF N/P LYNN THOMPSON, and
CASE MANAGER TIANA LUCERO,

Defendants.

ORDER TO SHOW CAUSE

Plaintiff is a prisoner in the custody of the Colorado Department of Corrections and is incarcerated at the Crowley County Correctional Facility in Olney Springs, Colorado. In an order filed on July 13, 2011, the Court granted Plaintiff's motion seeking leave to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915 in this action. Pursuant to § 1915(b)(1), Plaintiff was ordered to pay the \$350.00 filing fee, and he was directed to pay an initial partial filing fee of \$11.00.

Pursuant to § 1915(b)(2), Plaintiff is "required to make monthly payments of 20 percent of the preceding month's income credited to his account" until the filing fee is paid in full. In the Court's July 13 Order, Plaintiff was instructed either to make the required monthly payments or to show cause each month why he has no assets and no

means by which to make the monthly payment. In order to show cause, Plaintiff was directed to file a current certified copy of his inmate trust fund account statement. Plaintiff was warned that a failure to comply with the requirements of § 1915(b)(2) would result in the dismissal of this action.

On August 15, 2011, Plaintiff filed a motion titled "Request that the Court Reconsider its Order of Monthly Payments of 20% from Prisoners Trust Fund Account." In the motion, Plaintiff states that he has a "sponsor who will remit a monthly payment commencing on or before October 10, 2011." Therefore, he appears to request that the Court delay the requirement that he submit an initial partial filing fee until October 10, 2011. However, also on August 15, 2011, Plaintiff submitted an initial partial filing fee of \$10.00, one dollar less than the initial partial filing fee he was directed to pay on July 13, 2011. He has failed to file a certified copy of his inmate account statement demonstrating that he is unable to pay the full amount of his initial partial filing fee. Plaintiff has failed to comply with the requirements set forth in the July 13 Order granting him leave to proceed *in forma pauperis*.

Therefore, Plaintiff will be provided with additional time to either pay the \$1.00 remaining towards his initial partial filing fee, or show cause why he cannot by submitting a certified copy of his inmate account statement. Plaintiff's failure to either pay the \$1.00 or show cause why he cannot will result in the dismissal of this action without further notice. Accordingly, it is

ORDERED that Plaintiff shall have **thirty days from the date of this Order** in which to have the designated fee (\$1.00) sent to the clerk of the court or show cause

why he has no assets and no means by which to pay the designated initial partial filing fee. 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 show cause as directed in this Order, the Complaint and the action will be dismissed without further notice. It is

FURTHER ORDERED that the "Request that the Court Reconsider its Order of Monthly Payments of 20% from Prisoners Trust Fund Account" (Doc. # 16) is DENIED as inappropriate. Plaintiff was granted leave to proceed *in forma pauperis* on July 13, 2011, and is required to make monthly payments pursuant to 28 U.S.C. § 1915(b)(2).

DATED at Denver, Colorado, this 17th day of August, 2011.

BY THE COURT:

s/Craig B. Shaffer
Craig B. Shaffer
United States Magistrate Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

CERTIFICATE OF MAILING

Civil Action No. 11-cv-01695-BNB

Pedro Nival
Prisoner No. 135614
Crowley County Corr. Facility
6564 State Hwy. 96
Olney Springs, CO 81062-8700

I hereby certify that I have mailed a copy of the **ORDER** to the above-named individuals on August 17, 2011.

GREGORY C. LANGHAM, CLERK

By:  _____
Deputy Clerk