

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 11-cv-02459-BNB

GREGG PHILIP McMURTRY,

Plaintiff,

v.

AMANDA NICHOLE BEATTY,
MARK YURKY,
CELESTE M. QUINONES,
MICKEY HECKENBACH,
MICHAEL E. ANDERSON,
JOHN M. O'DELL,
DEBORAH C. ALLEN,
BECKY R. LUCERO, and
REBECCA L. OAKES,

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

At the time Plaintiff, Gregg Philip McMurtry, initiated the instant action, he was incarcerated at the Buena Vista Correctional Facility. On October 3, 2011, Plaintiff submitted to the Court a Notice of Change of Address indicating that he no longer is incarcerated and now is residing in Denver, 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 (2^d 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. 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 nonprisoners 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 November 2, 2011, at Denver, Colorado.

BY THE COURT:

s/ Boyd N. Boland
United States Magistrate Judge