

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 11-cv-03033-BNB

GARY WAYNE TURNER,

Plaintiff,

v.

LIEUTENANT FELZIEN,
NORRIS, Case Manager I,
PETERSON, Case Manager II,
LONG, Case Manager III,
KEVIN MILYARD, Warden,
JOHN CHAPDELAINE, Asst. Warden,
MAYOR KENNETH WILDENSTEIN, and
WEST WILSON, CM III,

Defendants.

ORDER DRAWING CASE

Mr. Turner is a prisoner in the custody of the Colorado Department of Corrections (DOC) and is incarcerated at the DOC correctional facility in Sterling, Colorado. He has filed a Complaint pursuant to 28 U.S.C. § 1343 and 42 U.S.C.

§ 1983 claiming that the Defendants have deprived him of his Constitutional rights. The Court has granted Plaintiff leave to proceed *in forma pauperis* pursuant to 28 U.S.C.

§ 1915 in this action without payment of an initial partial filing fee.

Pursuant to § 1915(b)(1), Mr. Turner was ordered to pay the \$350.00 filing fee in installments. Under § 1915(b)(2), he 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. Plaintiff failed to make a payment for January or to show cause why he is not able to make the payment. Accordingly, on February 7, 2012, the Court ordered Mr. Turner to show cause why this action should not be dismissed for failure to comply with the Court's December 21 Order and the requirements of § 1915(b)(2). Plaintiff submitted his response to the show cause order on February 21, 2012. He attached a certified copy of his trust fund account statement which shows a balance in his trust fund account of less than \$10.00 for January 2012. As such, he is not required to make a monthly payment for January 2012. See 28 U.S.C. § 1915(b)(2). Plaintiff's payment for February 2012 is past due. If Plaintiff does not make a payment for February within thirty days, or show cause why he cannot make the payment, this case will be dismissed without further notice.

After review pursuant to D.C.COLO.LCivR 8.2C, the Court has determined that this case does not appear to be appropriate for summary dismissal. Therefore, the case will be drawn to a district judge and to a magistrate judge. See D.C.COLO.LCivR 8.2D. Accordingly, it is

ORDERED that this case shall be drawn to a district judge and to a magistrate judge. It is

FURTHER ORDERED that the February 7, 2012 Order to Show Cause is discharged.

DATED March 19, 2012, at Denver, Colorado.

BY THE COURT:

s/ Boyd N. Boland
United States Magistrate Judge