

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 12-cv-01076-BNB

ERIC ADAMS,

Plaintiff,

v.

C. EVANS,
OFFICER GEORGE,
OFFICER FOCHEE,
OFFICER ECKART, and
OFFICER A. ESPINOSA,

Defendants.

ORDER TO DISMISS IN PART AND TO DRAW CASE
TO A DISTRICT JUDGE AND TO A MAGISTRATE JUDGE

On August 7, 2012, the Court denied in part Plaintiff Eric Adams' request to proceed pursuant to 28 U.S.C. § 1915. The Court found that Mr. Adams is subject to filing restrictions under 28 U.S.C. § 1915(g) and the claims he asserts against Defendants George, Evans, and Eckart do not show imminent danger of serious physical injury. The Court, therefore, instructed Mr. Adams to pay the entire \$350.00 filing fee within thirty days if he wished to pursue his claims against Defendants George, Evans, and Eckart. The Court warned Mr. Adams that if he failed to pay the filing fee within thirty days these defendants would be dismissed.

Mr. Adams has failed to pay the filing fee in full within the time allowed. Defendants George, Evans, and Eckart, therefore, will be dismissed. Only the claims asserted against Defendants Fochee and Espinosa will be drawn to a district judge and

to a magistrate judge. Accordingly, it is

ORDERED that Defendants George, Evans, and Eckart are dismissed without prejudice because Mr. Adams failed to pay the \$350.00 filing fee in full within the time allowed. It is

FURTHER ORDERED that the Clerk of the Court shall remove Defendants George, Evans, and Eckart from the docketing record as parties to this action. It is

FURTHER ORDERED that the claims asserted against Defendants Fochee and Espinosa shall be drawn to a district judge and to a magistrate judge. It is

FURTHER ORDERED that Mr. Adams may proceed in this action without payment of an initial partial filing fee. Mr. Adams remains obligated to pay the full amount of the required \$350.00 filing fee pursuant to 28 U.S.C. § 1915(b)(1) regardless of the outcome of this action. It is

FURTHER ORDERED that, until the \$350.00 filing fee is paid in full, Mr. Adams shall make monthly payments to the Court of twenty 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. Mr. Adams is directed to make the necessary arrangements to have the monthly payments identified by the civil action number on this Order. Mr. Adams must file a current certified copy of his trust fund account statement to show cause. It is

FURTHER ORDERED that if Mr. Adams fails to have the appropriate monthly 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 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 Plaintiff may owe in a prior action or actions if Plaintiff fails to stay current with his payment obligations in the prior action or actions.

DATED at Denver, Colorado, this 12th day of September, 2012.

BY THE COURT:

s/Lewis T. Babcock
LEWIS T. BABCOCK, Senior Judge
United States District Court