

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 12-cv-01810-BNB

REYNALDO Y. VILLA,

Plaintiff,

v.

JUDGE CHRISTAN HABAS,

Defendant.

ORDER GRANTING 28 U.S.C. § 1915 MOTION
WITHOUT PAYMENT OF INITIAL PARTIAL FILING FEE

Plaintiff, Reynaldo Y. Villa, is a prisoner in the custody of the Colorado Department of Corrections who is currently incarcerated at the Sterling Correctional Facility in Sterling, Colorado. Plaintiff has filed *pro se* a Prisoner Complaint and a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915. The Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 will be granted. Based on the information about his financial status, the court finds that Plaintiff is unable to pay an initial partial filing fee pursuant to § 1915(b)(1).

Title 28 U.S.C. § 1915 requires a prisoner bringing a civil action "to pay the full amount of a filing fee." 28 U.S.C. § 1915(b)(1). If a prisoner is unable to afford the full amount of the filing fee when the case is filed, the statute provides for payment of the filing fee through an initial partial filing fee and monthly installments of the balance until the full filing fee is paid. However, "[i]n no event shall a prisoner be prohibited from

bringing a civil action or appealing a civil or criminal judgment for the reason that the prisoner has no assets and no means by which to pay the initial partial filing fee.” 28 U.S.C. § 1915(b)(4).

Plaintiff may proceed in this action without payment of an initial partial filing fee. However, although he need not pay an initial partial filing fee, Plaintiff remains obligated to pay the required \$350.00 filing fee through monthly installments as directed in this order. Accordingly, it is

ORDERED that the Prisoner’s Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 (ECF No. 11) filed on August 16, 2012, is granted. It is

FURTHER ORDERED that Plaintiff may proceed in this action without payment of an initial partial filing fee. Plaintiff remains obligated to pay the full amount of the required \$350.00 filing fee pursuant to § 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, Plaintiff shall make monthly payments to the court of twenty (20) 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. Plaintiff is directed to make the necessary arrangements to have the monthly payments identified by the civil action number on this order. 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 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 prejudice and without further notice.

It is

FURTHER ORDERED that the “Pro Se Motion Asking the Court to Set a Jury Trial Date and Requesting a Court Order for a Copy of All Trial [sic] Transcripts” (ECF No. 13) is DENIED as premature.

FURTHER ORDERED that process shall not issue at this time.

DATED August 20, 2012, at Denver, Colorado.

BY THE COURT:

s/ Boyd N. Boland
United States Magistrate Judge