

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 12-cv-02624-BNB

ARTHUR HICKMON,

Plaintiff,

v.

JEFFERSON COUNTY SHERIFF'S OFFICE, and  
CORRECTIONAL HEALTHCARE MANAGEMENT,

Defendants.

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ORDER OF DISMISSAL

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In an order entered on November 7, 2012, Magistrate Judge Boyd N. Boland granted Mr. Hickmon leave to proceed pursuant to § 1915 and instructed him to pay a \$30.00 initial partial filing fee. Magistrate Judge Boland also instructed Mr. Hickmon that if he is unable to pay the initial partial filing fee he must file a **current** certified account statement that shows cause why he has no assets and no means by which to pay the fee.

Magistrate Judge Boland warned Mr. Hickmon that the action would be dismissed without further notice if either he failed to pay the initial partial fee within thirty days or in the alternative he failed to show cause why he is unable to do so. On November 29, 2012, Mr. Hickmon filed a Letter and a copy of his trust fund account statement. First, the account statement is not current. It is certified and dated November 4, 2012. Second, Mr. Hickmon suggests the Court agree to his paying the entire fee out of any funds he is awarded if the Court rules in his favor. Mr. Hickmon contends that the deposits to his account are inconsistent and the source he is relying

on to pay the \$30.00 in time may not be able to do so.

Mr. Hickmon is required to pay the filing fee in accordance with 28 U.S.C. § 1915(b). An initial partial filing fee is determined based on the average balance in or deposits to a prison account over the six months immediately preceding the filing of the prisoner complaint. The partial fee is not based on when and if a prisoner may receive monies from an outside source. If Mr. Hickmon does not have the funds in his account to pay the \$30.00 initial partial filing fee he must submit a current certified account statement to show cause why he is not able to pay the initial fee.

The November 4, 2012 account statement does not comply with the November 7, 2012 Order, because the statement is not current. The action, therefore, will be dismissed without prejudice for failure to comply with the November 7 Order.

Finally, the Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this Order is not taken in good faith, and, therefore, *in forma pauperis* status will be denied for the purpose of appeal. See *Coppedge v. United States*, 369 U.S. 438 (1962). If Mr. Hickmon files a notice of appeal he must also pay the full \$455.00 appellate filing fee or file a motion to proceed *in forma pauperis* in the United States Court of Appeals for the Tenth Circuit within thirty days in accordance with Fed. R. App. P. 24. Accordingly, it is

ORDERED that the Complaint and action are dismissed without prejudice pursuant to Fed. R. Civ. P. 41(b) for failure either to pay the initial partial filing fee or in the alternative to show cause. It is

FURTHER ORDERED that leave to proceed *in forma pauperis* on appeal is denied.

DATED at Denver, Colorado, this 13<sup>th</sup> day of December, 2012.

BY THE COURT:

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