

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 13-cv-00235-BNB

DAVID W. VEREN,

Plaintiff,

v.

THE UNITED STATES OF AMERICA, DEPARTMENT OF JUSTICE,
HARLEY G. LAPPIN, Director, Federal Bureau of Prisons,
MARY HERNDON, Administrative Service, U.S. Marshal Service,
JOHN OR JANE DOES 1-5, Administrative Service, U.S. Marshal Service,
MONA SMITH, ISM OFFICER, Federal Correctional Institution Florence,
JOHN OR JANE DOES 6-10, Federal Correctional Institution Florence,
FNU TSUDA, Staff Doctor, Federal Correctional Institution Englewood,
FNU KRAUS, Staff Doctor, Federal Correctional Institution Florence, and
MARK IPPOLITO, Health Services Administrator, F.D.C. Englewood,

Defendants.

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

At the time Plaintiff, David W. Veren, initiated the instant action, he was incarcerated at the Buena Vista Correctional Complex-Minimum in Buena Vista, Colorado. In a notice filed with the Court on March 6, 2013, Plaintiff indicated that he now resides in Woodland Park, Colorado. It appears that Plaintiff no longer is incarcerated.

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 **used by nonprisoners**. Alternatively, Plaintiff may elect to pay the \$350.00 filing fee to pursue his claims in this action. It is

FURTHER ORDERED that Plaintiff has thirty days from the date of this Order to file his claims on a proper Court-approved form as instructed to do in the February 26, 2013 Order to Cure Deficiencies. It is

FURTHER ORDERED that Plaintiff shall obtain the Court-approved form used in filing a Complaint and a 28 U.S.C. § 1915 Motion and Affidavit, along with the applicable instructions, at www.cod.uscourts.gov. It is

FURTHER ORDERED that if Plaintiff fails to comply with the instant Order, within thirty days of the date of this Order, the Complaint and action will be dismissed without further notice. It is

FURTHER ORDERED that the Motion to Proceed Non-P.L.R.A., filed March 6, 2013, is denied as moot.

DATED March 6, 2013, at Denver, Colorado.

BY THE COURT:

s/Boyd N. Boland
United States Magistrate Judge

