

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 13-00390-BNB

JOHNN A. VIDMAR, JR.,

Plaintiff,

v.

OFFICER REX, Badge # 0501

Defendant.

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

At the time Plaintiff, Johnn A. Vidmar, Jr., initiated the instant action, he was detained at the Jefferson County Detention Facility in Golden, Colorado. In a notice filed with the Court on March 18, 2013, Plaintiff indicates that as of March 23, 2013, he will be released from the detention facility and will reside in Pueblo, Colorado. It appears that as of March 23, 2013, 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 shall obtain the Court-approved form used in filing a nonprisoner 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.

DATED March 27, 2013, at Denver, Colorado.

BY THE COURT:

s/Boyd N. Boland
United States Magistrate Judge