

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 13-cv-01381-BNB

(The above civil action number must appear on all future papers sent to the court in this action. Failure to include this number may result in a delay in the consideration of your claims.)

DARLENE GRIFFITH,

Plaintiff,

v.

DAVID TESSIER, H.S.A.,
JOY HART, M. H. Supervisor,
GARY MORGAN, Clinician for M. H.,
JAN SYLVIA, Clinician for M. H.,
DANIEL PLAGGE, Clinician for M. H.,
DOUG ROBERTS, P.P.M.U. ,
JOHN DOE, P.P.M.U. at K.C.C.F.,
HOPE C. BEATHE, Ph.D.,
JAMES MICHAUD, Ph.D.,
PAUL FRANTZ, M.D.,
TIMOTHY CREANY, Cheif [sic] Medical Officer,
DAVID REPART, Lt.,
SALVAGE, Captin [sic], and
FRED GIFFORD, Associate Warden,

Defendants.

AMENDED ORDER GRANTING LEAVE TO PROCEED
PURSUANT TO 28 U.S.C. § 1915
WITHOUT PAYMENT OF INITIAL PARTIAL FILING FEE

Plaintiff, Darlene Griffith, is a prisoner in the custody of the Colorado Department of Corrections who currently is incarcerated at the Colorado Territorial Correctional Facility. He submitted *pro se* two different Prisoner Complaints (ECF Nos. 1 and 3) and a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915

(ECF No. 4). The Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 (ECF No. 3) will be granted.

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).

Based on the information about Plaintiff's financial status, the Court finds that Plaintiff is unable to pay an initial partial filing fee pursuant to § 1915(b)(1). However, although he need not pay an initial partial filing fee, Plaintiff is required to pay the full amount of the required \$350.00 filing fee pursuant to § 1915(b)(1) through monthly installments as directed in this order regardless of the outcome of this action. Plaintiff has consented to disbursement of partial payments of the filing fee from his prison account. Accordingly, it is

ORDERED that the Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 (ECF No. 4) is granted. It is

FURTHER ORDERED that Plaintiff may proceed in this action without payment of an initial partial filing fee. Plaintiff is required to pay the full amount of the required \$350.00 filing fee pursuant to § 1915(b)(1) through monthly installments as directed in this order regardless of the outcome of this action. It is

FURTHER ORDERED that Plaintiff's custodian shall disburse from Plaintiff's prison account, in keeping with 28 U.S.C. § 1915(b) if funds are available, monthly payments of 20 percent of the preceding month's income credited to this prison account until he has paid the total filing fee of \$350.00. See 28 U.S.C. §1915(b)(2). Interference by Plaintiff in the submission of these funds shall result in the dismissal of this action. It is

FURTHER ORDERED that Plaintiff is advised that notwithstanding any filing fee, or any portion thereof, that may have been paid, the Court shall dismiss at any time all or any part of such complaint which (1) is frivolous or malicious; (2) fails to state a claim on which relief can be granted; or (3) seeks monetary relief from a defendant who is immune from such relief. See 28 U.S.C. §1915(A)(b); 28 U.S.C. § 1915(e)(2). It is

FURTHER ORDERED that monthly payments will continue to be collected until full payment of the filing fee has been received by the Court even after disposition of the case and regardless of whether relief is granted or denied. It is

FURTHER ORDERED that the Clerk of the Court shall not issue process until further order of the Court. It is

FURTHER ORDERED that the Clerk of the Court shall send a copy of this order to DOC_inmateaccounts@state.co.us.

DATED June 3, 2013, at Denver, Colorado.

BY THE COURT:

s/Boyd N. Boland _____
United States Magistrate Judge