

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 13-cv-01574-BNB

NATHANIEL JAMES HARVEY, III,

Plaintiff,

v.

ROGER WERHOLTZ, Deputy Director of DOC, official capacity,  
LOU ARCHULETA, Head Administrative Warden, official capacity, and  
OFFICER CATHERINE SEGURA, individual and official capacity,

Defendants.

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

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Plaintiff, Nathaniel James Harvey, III, is in the custody of the Colorado Department of Corrections who currently is incarcerated at the Fremont Correctional Facility in Cañon City, Colorado. He has submitted *pro se* a Prisoner Complaint (ECF No. 1) and two prisoner's motions and affidavits for leave to proceed pursuant to 28 U.S.C. § 1915 (ECF Nos. 3 and 6), which together provide the information Plaintiff was required to submit. The prisoner's motions and affidavits for leave to proceed pursuant to 28 U.S.C. § 1915 (ECF Nos. 3 and 6) 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 motions and affidavits for leave to proceed pursuant to 28 U.S.C. § 1915 (ECF No. 3 and 6) are 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](mailto:DOC_inmateaccounts@state.co.us). It is

FURTHER ORDERED that the motion for transcripts (ECF No. 8) is denied because the transcripts he seeks are not available from this Court.

DATED June 19, 2013, at Denver, Colorado.

BY THE COURT:

s/Boyd N. Boland  
United States Magistrate Judge