

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 13-cv-02933-BNB

JOSHUA D. CARRIER,

Plaintiff,

v.

MICHELLE LUNDSTEDT, sued in her individual capacity,
AMY FITCH, sued in her individual capacity,
ANDY BRYANT, sued in his individual capacity,
JOHN DOE JAIL COMMANDER, sued in his individual and official capacities,
JANE DOE JAIL UNDERSHERIFF, sued in her individual and official capacities,
DAN MAY, sued in his individual and official capacities, and
COUNTY OF EL PASO, sued in its official capacity,

Defendants.

ORDER GRANTING LEAVE TO PROCEED PURSUANT TO 28 U.S.C. § 1915

Plaintiff, Joshua D. Carrier, currently is incarcerated at Old County Correctional Facility in Bridgewater, Massachusetts. He has submitted *pro se* an amended Prisoner Complaint (ECF No. 10) for money damages pursuant to 42 U.S.C. § 1983, a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 (ECF No. 3), and a certified copy of his trust fund account statement (ECF No. 12) for the six-month period immediately preceding this filing. The Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 (ECF No. 3) will be granted. The amended Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 (ECF. No. 9) will be denied as moot.

Based on information about Plaintiff's financial status, the Court finds that Plaintiff

is able to pay an initial partial filing fee of **\$35.00** pursuant to 28 U.S.C. § 1915(b)(1). Plaintiff has consented to disbursement of partial payments of the filing fee from his prison account. Plaintiff is required to pay the full amount of the required \$350.00 filing fee pursuant to § 1915(b)(1) regardless of the outcome of this action.

Accordingly, it is

ORDERED that the Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 (ECF No. 3) is granted. It is

FURTHER ORDERED that the amended Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 (ECF No. 9) is denied as moot. It is

FURTHER ORDERED that, within thirty days of the date of this order, Plaintiff's custodian shall disburse from Plaintiff's prison account, if funds are available in keeping with 28 U.S.C. § 1915(b), an initial partial filing fee of **\$35.00** to the Clerk of the United States District Court for the District of Colorado, which represents 20 percent of the greater of the (1) average monthly deposits, or (2) average monthly balance in Plaintiff's prison accounts for the six-month period immediately preceding the filing of the complaint. See 28 U.S.C. §1915(b). It is

FURTHER ORDERED that after payment of the initial partial filing fee, Plaintiff's custodian shall disburse, if funds are available in keeping with 28 U.S.C. § 1915(b), from Plaintiff's prison account 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 the Business Office, Attention Inmate Accounts, at the Old Colony Correctional Center in Bridgewater, Massachusetts. It is

FURTHER ORDERED that the motion for clarification (ECF No. 13) is denied as moot.

DATED January 2, 2014, at Denver, Colorado.

BY THE COURT:

s/Boyd N. Boland
United States Magistrate Judge