

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 13-cv-03515-BNB

DELMART, E.J.M., VREELAND, II,

Plaintiff,

v.

CELIA SCHWARTZ, Legal Assistant II,
LIEUTENANT S. MORGAN, BVCF/North Unit,
SERGEANT G. WOOD, BVCF/North Unit,
CASE MANAGER J. HANSEN, BVCF/North Unit,
D. COTTEN, Administrative Services Manager,
W. BRUNELL, Associate Warden,
J. DAVIS, Warden, and
RICHARD RAEMISCH, Executive Director,

Defendants.

ORDER

At issue is Plaintiff's Response, ECF No. 5, filed on January 27, 2014. In the Response, Plaintiff asks that the Court accept a payment plan for the required \$350.00¹ filing fee that is different than the payment plan set forth in 28 U.S.C. § 1915. Title 28 U.S.C. § 1915(b)(2) requires that a prisoner "make monthly payments of 20 percent of the preceding month's income credited to the prisoner's account," provided the prisoner's account exceeds \$10.00. This provision requires the prisoner to make the payment at the time his account is credited, before the prisoner engages in other,

¹The \$50 administrative filing fee does not apply to persons granted in forma pauperis status under 28 U.S.C. 1915. See U.S. District Court District of Colorado Schedule of Fees (www.cod.uscourts.gov)

discretionary spending of that income. *Harris v. Colorado Dept. of Corrections*, 2000 WL 33193816, at *1 (D. Colo. Dec. 19, 2000). Plaintiff's request to submit payments separate from the procedure outlined in § 1915(b) is denied.

On December 30, 2013, Plaintiff submitted a signed authorization agreeing to disbursement of monthly payments from his prison account for payment against the \$350.00 filing fee in keeping with 28 U.S.C. § 1915. The Court will direct Plaintiff to confirm his agreement to the disbursement and to proceed with this case pursuant to § 1915. Accordingly, it is

ORDERED that Plaintiff is directed to comply with this Order as set forth above and confirm his desire to proceed with this action pursuant to 28 U.S.C. § 1915 and to authorize disbursement of the funds from his inmate account. It is

FURTHER ORDERED that if Plaintiff does not desire to proceed pursuant to § 1915 he is directed to pay the \$400.00 filing fee in full within thirty days of the date of this Order. It is

FURTHER ORDERED that if Plaintiff fails to comply within in thirty days of the date of this Order, the Prisoner Complaint will be dismissed without further notice.

DATED January 28, 2014, at Denver, Colorado.

BY THE COURT:

s/Boyd N. Boland
United States Magistrate Judge