

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
**Magistrate Judge Kathleen M. Tafoya**

Civil Action No. 14-cv-01460-RM-KMT

CHINO VUE,

Plaintiff,

v.

CAPTAIN WILLIAM SCOTT, Sterling Correctional Facility,  
LIEUTENANT RONALD GILES, Sterling Correctional Facility,  
LIEUTENANT RONAL CARPENTER, Sterling Correctional Facility,  
DOCTOR MAURICE FAUVEL, Sterling Correctional Facility,  
SERGEANT TINA TAMETEO, Sterling Correctional Facility,  
SERGEANT TREVOR BUCHHOLTZ, Sterling Correctional Facility,  
CORRECTIONAL OFFICER STEVEN BELL, Sterling Correctional Facility,  
CORRECTIONAL OFFICER NICHOLAS LEECH, Sterling Correctional Facility,  
CORRECTIONAL OFFICER CHERYL BRINDISI, Sterling Correctional Facility,  
CORRECTIONAL OFFICER DAVID CUSTER, Sterling Correctional Facility,  
FACILITY NURSE CHARLENE LARSON, Sterling Correctional Facility, and  
FACILITY NURSE CONNIE CAUSSEN, Sterling Correctional Facility,

Defendants.

---

**ORDER**

---

This matter is before the court on Plaintiff's "Motion for Reconsideration to Pay Filing Fee." (Doc. No. 7, filed June 13, 2014.) For the following reasons, Plaintiff's Motion is GRANTED in part insofar as the court clarifies Magistrate Judge Boyd N. Boland's May 27, 2014 "Order Granting 28 U.S.C. § 1915 Motion" (Doc. No. 4 [hereinafter "§ 1915 Order"].)

The § 1915 Order states:

Within thirty days of the date of this Order Plaintiff's custodian shall disburse from Plaintiff's prison account an initial partial filing fee of \$8.00 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 account for the six-month period immediately preceding the filing of the complaint.

(§ 1915 Order at 2 (citing 28 U.S.C. § 1915(b).)

Plaintiff states that his prison account now has a negative balance of over \$100, due to copying and postage costs incurred in this case, and expresses concern that he will not be able to pay the partial filing fee of \$8.00 as ordered by Judge Boland. 28 U.S.C. § 1915(b)(1) provides that “[t]he court shall assess and, when funds exist, collect, as a partial payment of any court fees required by law . . . .” (emphasis added). Thus, to the extent that Plaintiff is correct that his prison account currently has a negative balance,<sup>1</sup> the filing fee will not be collected by the court or disbursed by Plaintiff's custodian. However, Judge Boland's advisement “that any interference by Plaintiff in the submission of these funds will result in the dismissal of this action” remains in effect. (§ 1915 Order at 2.) In other words, if funds sufficient to allow collection of the partial filing fee exist at a later date, Plaintiff shall not interfere with the court's attempt to collect, or his custodian's attempt to disburse, those funds.

Therefore, it is

ORDERED that Plaintiff's “Motion for Reconsideration to Pay Filing Fee” (Doc.


---

<sup>1</sup> Although Plaintiff asserts he has attached a copy of his six-month balance to his Motion, there is no balance statement attached to the Motion received by the court.

No. 7) is GRANTED in part. Judge Boland's May 27, 2014 "Order Granting 28 U.S.C. § 1915 Motion" is clarified as discussed above.

Dated this 16th day of July, 2014.

BY THE COURT:



---

Kathleen M. Tafoya  
United States Magistrate Judge