

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 15-cv-02050-GPG

(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.)

JOSE A. LOPEZ,

Plaintiff,

v.

RICK RAEMISCH, Executive Director,
DAVID JOHNSON, Warden of D.R.D.C., Denver Reception and Diagnostic Center,
DEPARTMENT OF CORRECTIONS,
JOHN DOE, Sergeant on Duty 10-10-14, Unit 5,
JOHN DOES, two responding officers, 10-14-14,
JANE DOE, responding officer took me to medical,
JANE DOE #2, 10-14-14, 11:30 p.m., D.R.D.C.,
JOHN DOE, Radiologist 10-19-14, D.R.D.C. Medical,
JOHN DOE #11, who had me sign medical release form,
CAPTAIN PERRY, 8:30 p.m., 10-30-14, and
SERGEANT MAJORS, D.R.D.C. Unit 5, 10/16/2014,

Defendants.

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

Plaintiff, a prisoner in the custody of the Colorado Department of Corrections, has submitted to the court *pro se* a Prisoner Complaint (ECF No. 1), a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 (ECF No. 2), and a Motion for Appointment of Counsel (ECF No. 3). The Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 will be granted. Based on the information about Plaintiff's financial status, the Court finds that Plaintiff is able to pay an initial partial filing fee of \$4.00 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. (See ECF No. 2 at 3.) 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. 2) is granted. It is

FURTHER ORDERED that 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 \$4.00 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. 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 from Plaintiff's prison account monthly payments of 20 percent of the preceding month's income credited to his prison account until Plaintiff 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 will 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 Plaintiff's custodian shall continue to disburse

monthly payments from Plaintiff's prison account until full payment of the filing fee has been paid to 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. It is

FURTHER ORDERED that the Motion for Appointment of Counsel is denied as premature.

DATED September 21, 2015, at Denver, Colorado.

BY THE COURT:

s/ Gordon P. Gallagher
United States Magistrate Judge