

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

Civil Action No. 15-cv-02425-GPG

RASHOD JAMES,

Plaintiff,

v.

**N. HAMAKER;
M. STRUBE;
FEDERAL BUREAU OF PRISONS;
M. ANTHONY;
J. ARMIJO;
EASTON, FNU;
J. MORABITO;
ERIC EARWIN;
T. K. COZZA-RHODES;
M. RIOS;
GAFFNEY, FNU;
ROMAIN, FNU;
SHEPHERD, FNU;**

Defendants.

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

Plaintiff, acting *pro se*, has filed a Prisoner Complaint and a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915. 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 \$7.00 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.

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), regardless of the outcome of the action, § 1915(e)(2). 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).

Accordingly, it is

ORDERED that the Prisoner’s Motion and Affidavits for Leave to Proceed Pursuant to 28 U.S.C. § 1915, ECF No. 3, 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, if funds are available in keeping with 28 U.S.C. § 1915(b), an initial partial filing fee of \$7.00 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. 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 this prison account until Plaintiff has paid the total filing fee of \$350. 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 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 FLM/LegalSvcs~@bop.gov. It is

FURTHER ORDERED that Plaintiff's Motion to Vacate Order to Cure Deficiencies, ECF No. 5, is **DENIED** as moot.

DATED November 18, 2015, at Denver, Colorado.

BY THE COURT:

s/ Gordon P. Gallagher
United States Magistrate Judge

