

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

Civil Action No. 15-cv-2440-GPG

JOSEPH WAYNE WARD,

Plaintiff,

v.

STANLEY GARNETT,
INGRID S. BAKKE,

Defendants.

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

Plaintiff, Joseph Wayne Ward, a *pro se* prisoner litigant, has submitted a Prisoner Complaint (ECF No. 4) and a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 (ECF No. 5). Plaintiff's request to proceed pursuant to § 1915 will be granted. Plaintiff has consented to disbursement of partial payments of the filing fee from his inmate account. (ECF No. 5 at 5). The initial partial filing fee is calculated by determining "20 percent of the greater of – (A) the average monthly deposits to the prisoner's account; or (B) the average monthly balance in the prisoner's account for the 6-month period immediately preceding the filing of the complaint" 28 U.S.C. § 1915(b)(1). Based on the information about Plaintiff's financial status (ECF No. 5), the Court finds that Plaintiff may be able to pay an initial partial filing fee of \$69.55 pursuant to 28 U.S.C. § 1915(b)(1).

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). 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 Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 (ECF No. 5) is GRANTED. It is

FURTHER ORDERED that within thirty days of the date of this Order, Plaintiff’s custodian shall disburse from Plaintiff’s inmate account an initial partial filing fee of \$69.55 to the Clerk of the United States District Court for the District of Colorado. It is

FURTHER ORDERED that after payment of the initial partial filing fee, Plaintiff’s custodian shall disburse from Plaintiff’s inmate account monthly payments of 20 percent of the preceding month’s income credited to his inmate 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 inmate 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 electronically mail a copy of this Order to: DOC_inmateaccounts@state.co.us. It is

FURTHER ORDERED that Plaintiff's Request for the Court to Order Service (ECF No. 6) is DENIED as premature. The Court will perform a preliminary review pursuant to D.C.COLO.LCivR 8.1(a) and (b) before service is ordered.

DATED December 17, 2015, at Denver, Colorado.

BY THE COURT:

s/Gordon P. Gallagher
United States Magistrate Judge