

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 16-cv-198-GPG

ARTHUR MOORE,

Plaintiff,

v.

LITTLE, Captain
K. ROBERTS, Case Manager,
KYLE ROBERTS, #2440,

Defendants.

ORDER FOR RESPONSE FROM CSP WARDEN

Plaintiff, Arthur Moore, is a prisoner in the custody of the Colorado Department of Corrections, currently incarcerated at the Colorado State Penitentiary in Canon City, Colorado. On January 26, 2016, he filed *pro se* a prisoner complaint pursuant to 28 U.S.C. § 1343 and 42 U.S.C. § 1983. (ECF No. 1). Mr. Moore is subject to 28 U.S.C. § 1915(g) filing restrictions. *See Moore v. Arguello*, 13-cv-1861, ECF No. 4 (discussing filing restrictions). He was denied leave to proceed *in forma pauperis* on March 3, 2016 and ordered to pay the \$400.00 filing fee within thirty days. (ECF No. 6).

On March 14, 2016, Plaintiff filed a motion titled, "Motion to Amend . . . Motion to Proceed . . . Re: Due Process Violation and Hindering Payment to the Court," in which he argued that prison officials are intentionally hindering the legal process by not allowing his payment to be sent to the court. (ECF No. 7). As evidence, Plaintiff attached to his motion a copy of a Department of Corrections Request for Money Order

form, which was signed by him on January 28, 2016, requesting a \$400.00 money order be sent to the United States District Court and specifically identifying this case number. (ECF No. 7 at 5). The request appears to have been approved. At the bottom of the Request for Money Order form is a copy of an actual Money Order, made out to the United States District Court for \$400.00. (*Id.*) Additionally, Plaintiff attached a copy of his Prisoner Account statement that shows a money-order debit to his account on February 9, 2016 in the amount of \$400.75. (*Id.* at 3).

On March 21, 2016, Plaintiff filed a Motion titled, "Motion to Amend to \$200,000.00 Re: Falsifying Prison Account Records." (ECF No. 8). In the Motion alleging falsification of prison account records, Plaintiff argues that prison officials are falsifying his prison account records to make it appear that Plaintiff did not attempt to send the \$400.00 to the court. He attaches a Grievance Form, dated March 10, 2016, where he complains that his prison unit staff must have mishandled the mail or money order because he tried to send the court \$400.00. (*Id.* at 2). The Grievance Responder denied the grievance on March 14, 2016, stating that the Inmate Banking Office had not received a completed outgoing money order request. (*Id.*)

Based on Mr. Moore's representations, the Court will order the warden of the Colorado State Penitentiary to respond and verify whether Mr. Moore, as he claims, has been denied withdrawal of funds from his account for payment of the filing fee to the Court, and if he was denied the withdrawal of funds, why the request was denied. The Court also will ask the warden to verify whether Mr. Moore has followed the proper procedure for requesting the filing fee be sent to the Court.

Accordingly, it is

ORDERED that the Clerk of the Court send a copy of the instant Order along with Document Nos. 7 and 8 to the Colorado State Penitentiary Warden and to the Attorney General of the State of Colorado. It is

FURTHER ORDERED that **within thirty days from the date of this order** the warden of the Colorado State Penitentiary in Canon City, Colorado, is instructed to respond and verify to the Court whether Plaintiff, Arthur Moore, has been denied the withdrawal of funds from his account for payment of the filing fee to the Court and, if Mr. Moore was denied the withdrawal of funds, why the request was denied. It is

FURTHER ORDERED that **within thirty days from the date of this order** the warden also is instructed to respond and verify to the Court whether Mr. Moore has followed the proper procedure for requesting the filing fee be sent to the Court.

DATED at Denver, Colorado, this 31st_ day of March, 2016.

BY THE COURT:

A handwritten signature in black ink, consisting of a stylized 'G' followed by a wavy line and a horizontal tail.

Gordon P. Gallagher
United States Magistrate Judge