

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

Civil Action No. 16-cv-00638-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.)

JUSTIN STETLER,

Plaintiff,

v.

COLORADO JUSTICE CENTER, Unnamed Guards & Named Guards,

Defendants.

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

Plaintiff is incarcerated at the El Paso County Criminal Justice Center. He filed *pro se* a Prisoner Complaint (ECF No. 1). As part of the Court's review pursuant to D.C.COLO.LCivR 8.1(b), the Court directed Plaintiff to cure certain deficiencies, namely the filing of a Prisoner's Motion and Affidavit pursuant to 28 U.S.C. § 1915, if he wished to pursue any claims in this action. (ECF No. 3). Plaintiff submitted a Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 on April 8, 2016, but the Motion and Affidavit were on the wrong form and were missing the required authorization and certified inmate account statement. (ECF No. 5). The Court entered a second order directing Plaintiff to cure these deficiencies. (ECF No. 6). Plaintiff has substantially complied with the Orders and has filed a certified inmate account statement and authorization. (ECF No. 7).

The Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 (ECF No. 5) is 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 \$11.94 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. 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 Order (ECF No. 6) denying without prejudice the Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 is **AMENDED** by the instant Order and the 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 prison account, if funds are available in accordance with 28 U.S.C. § 1915(b), an initial partial filing fee of \$11.94 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 he 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 shall 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. 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 received by 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 mail a copy of this Order to:

El Paso County Criminal Justice Center
Business Office
Attention: Inmate Accounts
2739 East Las Vegas Street
Colorado Springs, CO 80906

DATED April 26, 2016, at Denver, Colorado.

BY THE COURT:

s/ Gordon P. Gallagher
United States Magistrate Judge