

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

Civil Action No. 16-cv-00875-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.)**

DAVID DALRYMPLE,

Plaintiff,

v.

CORRECTIONS CORP. OF AMERICA,  
KRISTOPHER KLINE, Warden, KCCC,  
LOIS A. ROSA, Assistant Warden, KCCC,  
TAYLOR, Unit Manager, KCCC,  
SWARTZ, Property Officer, KCCC,  
IDAHO DEPT. OF CORRECTIONS,  
HIGGINS, Deputy Warden,  
BLADES, Warden, and  
KEVIN KEMP, Director of Idaho Prisons,

Defendants.

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ORDER VACATING THE ORIGINAL ORDER GRANTING LEAVE TO AMEND  
PURSUANT TO 28 U.S.C. § 1915 AND ENTERING THIS AMENDED ORDER  
GRANTING LEAVE TO PROCEED PURSUANT TO 28 U.S.C. § 1915

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The original order granting leave to proceed pursuant to 28 U.S.C. § 1915 is vacated and this Order is entered in its place.

Plaintiff David Dalrymple, a *pro se* prisoner litigant, has submitted a Prisoner Complaint and a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915. Plaintiff's request to proceed pursuant to § 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 \$27.00 pursuant to § 1915(b)(1). Plaintiff has consented

to disbursement of partial payments of the filing fee from his inmate account. See ECF No. 2 at 3.

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 ECF No. 4 is vacated. It is

FURTHER 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, if funds are available in keeping with 28 U.S.C. § 1915(b), an initial partial filing fee of \$27.00 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 inmate account monthly payments of 20 percent of the preceding month’s income credited to this 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 send a copy of this Order to the Business Office, Att: Inmate Accounts, at the Idaho State Correctional Institution Unit 13, P.O. Box 14, Boise, Idaho 83707.

DATED April 20, 2016, at Denver, Colorado.

BY THE COURT:

s/Gordon P. Gallagher  
United States Magistrate Judge