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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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RIGOBERTO E. ISAZA,

Plaintiff,

v.

EARL M. TROTTER, et al.,

Defendants.

Case No. 2:15-cv-00821-JCM-PAL

ORDER

(IFP App. – Dkt. #4; Mot. Issue Summons –
Dkt. #5; Mot. Ext. Copies – Dkt. #6)

This matter is before the Court on Plaintiff Rigoberto E. Isaza’s Application to Proceed *In Forma Pauperis* (Dkt. #4), Motion to Issue Summons (Dkt. #5), and Motion to Extend Legal Copy Work (Dkt. #6). These Motions are referred to the undersigned pursuant to 28 U.S.C. § 636(b)(1)(A) and LR IB 1-3 of the Local Rules of Practice.

I. APPLICATION TO PROCEED *IN FORMA PAUPERIS*

Mr. Isaza is a prisoner in the custody of the Nevada Department of Corrections and is proceeding in this action *pro se*. He commenced this action on April 30, 2015, by filing a civil rights complaint. *See* Receipt of Initiating Docs & Compl. (Dkt. #1). Isaza subsequently filed a Financial Certificate (Dkt. #2) without a corresponding request to proceed *in forma pauperis* (“IFP”) pursuant to 28 U.S.C. § 1915 and LSR 1-1 of the Local Rules of Practice. On March 10, 2016, the Court issued an Order (Dkt. #3) giving Mr. Isaza the option of withdrawing his Complaint or timely filing an IFP application for incarcerated persons. He was informed that the Court seriously doubted that federal jurisdiction was proper in this case. *Id.* at 3. Additionally, he was told that, if the Court grants him IFP status, “he will be required, under 28 U.S.C. § 1915, to pay the full \$350.00 filing fee, even if his complaint is dismissed.”¹ *Id.* at 3:6–7. Mr. Isaza

¹ Pursuant to the court’s Schedule of Fees dated January 1, 2015, the administrative fee of \$50.00 does not apply to persons granted *in forma pauperis* status under 28 U.S.C. § 1915.

1 opted to file an IFP Application (Dkt. #4) requesting permission to proceed IFP.

2 Mr. Isaza's financial documents show that he is unable to prepay fees and costs or give
3 security for them. Accordingly, the Court will grant his request to proceed IFP pursuant to
4 § 1915(a). Isaza's average monthly balance is \$0, and his average monthly deposits are \$0.
5 Therefore, the Court finds that he is not required to pay an initial partial filing fee and he will pay
6 the full \$350 filing fee through monthly instalments from his inmate trust account. The Court
7 will screen Mr. Isaza's Complaint in a separate report of findings and recommendation.

8 **II. MOTION TO ISSUE SUMMONS AND MOTION TO EXTEND LEGAL COPY WORK**

9 Mr. Isaza has prematurely filed two motions requesting relief. *See* Pl.'s Mot. to Issue
10 Summons (Dkt. #5); Mot. to Extend Legal Copy Work (Dkt. #6). The Court has not yet
11 screened the Complaint pursuant to 28 U.S.C. § 1915 and found that it states a valid claim for
12 relief. The Court will not direct issuance of summons to the defendants or extend legal copy
13 work unless it first finds that Isaza states a colorable claim. The motions are denied without
14 prejudice.

15 Accordingly,

16 **IT IS ORDERED:**

17 1. Plaintiff Rigoberto E. Isaza's Application to Proceed *In Forma Pauperis* (Dkt. #4) is
18 GRANTED.

19 a. Mr. Isaza is permitted to maintain this action to conclusion without paying an
20 initial installment fee; however, pursuant to 28 U.S.C. § 1915(b)(2), he must
21 still make installment payments to satisfy the full \$350 filing fee even if this
22 action is dismissed.

23 b. This Order granting *in forma pauperis* status shall not extend to the issuance
24 and/or service of subpoenas at government expense.


25 2. The Clerk of the Court SHALL FILE the Complaint but SHALL NOT issue
26 summons. The Court will screen Mr. Isaza's Complaint in a separate report of
27 findings and recommendation.

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3. Pursuant to 28 U.S.C. § 1915(b)(2), the High Desert State Prison shall forward to the Clerk of the United States District Court, District of Nevada, twenty percent (20%) of the preceding month's deposits to Mr. Isaza's inmate trust account (in the months that the account exceeds \$10.00) until the full \$350.00 filing fee has been paid for this action. The Clerk of the Court shall send a copy of this Order to the Finance Division of the Clerk's Office and the Accounting Supervisor of the High Desert State Prison. If Isaza should be transferred, the Accounting Supervisor at High Desert State Prison is directed to send a copy of this Order to the new place of incarceration, indicating the amount that Isaza has paid towards his filing fee, so that funds may continue to be deducted from his account.
4. Plaintiff Rigoberto E. Isaza's Motion to Issue Summons (Dkt. #5) and Motion to Extend Legal Copy Work (Dkt. #6) are DENIED WITHOUT PREJUDICE.

Dated this 13th day of May, 2016.


PEGGY A. ZEEN
UNITED STATES MAGISTRATE JUDGE