

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO**

ROBERT TORREZ,

Plaintiff,

vs.

No. CV 17-843 MV/GJF

CENTURIAN, LLC, et al.,

Defendants.

ORDER TO SHOW CAUSE

THIS MATTER is before the Court *sua sponte*. Plaintiff, Robert Torrez, filed this civil rights proceeding under 42 U.S.C. § 1983 on August 17, 2017. ECF No. 1. Plaintiff did not pay the \$400.00 filing fee or submit an application to proceed without prepayment of fees or costs pursuant to 28 U.S.C. § 1915. Plaintiff did submit a copy of his six-month inmate account statement, but did not file an application to proceed in District Court without prepaying fees or costs. ECF No. 3. On March 30, 2018, the Court ordered Plaintiff to cure this deficiency within 30 days by submitting an application to proceed *in forma pauperis*. ECF No. 5. The Order advised Plaintiff that, if he failed to cure the deficiency within the 30-day time period, the Court could dismiss this proceeding without further notice. *Id.* at 1. The Court also sent Plaintiff the forms and instructions for submitting an application under § 1915. *Id.* at 2. More than 30 days has elapsed since entry of the Court's Order to Cure Deficiency and Plaintiff has not submitted an application to proceed under § 1915, or otherwise responded to the Court's February 22, 2018 Order.

Under 28 U.S.C. §§ 1914(a) and 1915(a), the Court is required to collect the filing fee from the Plaintiff or authorize Plaintiff to proceed without prepayment of the fee. Section

1915(a) provides that the Court may authorize commencement of a civil case without prepayment of fees:

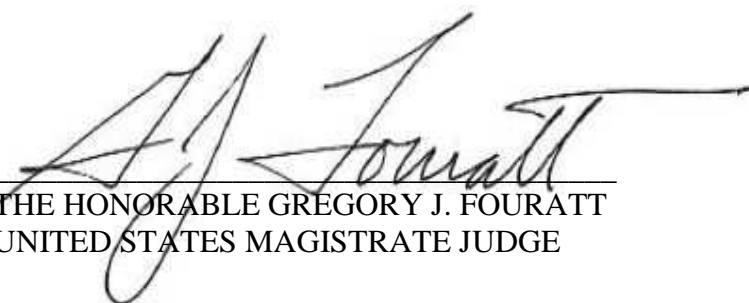
. . . by a person who submits an affidavit that includes a statement of all assets such prisoner possesses that the person is unable to pay such fees or give security therefor. Such affidavit shall state the nature of the action, defense, or appeal and affiant's belief that the person is entitled to redress.

28 U.S.C. § 1915(a). The form application sent to Plaintiff by the Court with the March 30, 2018 Order contains the affidavit required by § 1915(a). Without the affidavit required by § 1915(a), the Court may not authorize Plaintiff to proceed with this action without prepaying the filing fee.

Plaintiff has failed to either pay the \$400.00 filing fee or submit an application to proceed under § 1915. Therefore, the Court will order Plaintiff to show cause within twenty-one (21) days of the date of entry of this Order why this proceeding should not be dismissed for failure to comply with the requirements of 28 U.S.C. §§ 1914 and 1915 and with the Court's March 30, 2018 Order to Cure Deficiency. If Plaintiff does not show cause within twenty-one (21) days, the Court may dismiss this case without further notice.

IT IS HEREBY ORDERED that Plaintiff Robert Torrez show cause **within twenty-one (21) days** of the entry of this Order why his Complaint for Violation of Civil Rights should not be dismissed for failure to comply with 28 U.S.C. §§ 1914 and 1915 and failure to comply with the Court's March 30, 2018 Order to Cure Deficiency.

IT IS SO ORDERED.



THE HONORABLE GREGORY J. FOURATT
UNITED STATES MAGISTRATE JUDGE