

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

BAYWARD STONE,

Plaintiff,

v.

No. 2:17-cv-00518 KG/KRS

GEO GROUP, INC.,
LEO COUNTY CORRECTIONAL FACILITY, AND
R.C. SMITH

Defendants.

**ORDER GRANTING LEAVE TO PROCEED
PURSUANT TO 28 U.S.C. § 1915(b)**

Before the Court is Plaintiff's Application for Free Process and Affidavit of Indigency (Doc. 8) filed in connection with his prisoner civil rights complaint. Plaintiff's financial information reflects he is unable to prepay the \$400.00 filing fee for this action. The Court will therefore grant the motion, which reduces the fee to \$350.00, and allow Plaintiff to pay in installments. 28 U.S.C. § 1915(b)(1). Plaintiff must make an initial partial payment of "20 percent of the greater of—(A) the average monthly deposits to the prisoner's account; or (B) the average monthly balance in the prisoner's account for the 6-month period immediately preceding the filing of the complaint[.]" *Id.* Thereafter, Plaintiff is "required to make monthly payments of 20 percent of the preceding month's income credited to the prisoner's account." 28 U.S.C. § 1915(b)(2).

Plaintiff's inmate account statement reflects that his average monthly deposits are \$54.65 and his average monthly account balance is \$189. (Doc. 8). The Court shall assess an initial payment of \$37.80 (which is 20% of the greater figure, \$189) pursuant to § 1915(b)(1)(A). The account statements demonstrate he has sufficient funds to make the payment.

The Court will generally not review the merits of Plaintiff's civil rights complaint unless the initial partial payment is paid or excused. If Plaintiff fails to timely make his payment, his complaint may be dismissed without further notice.

IT IS, THEREFORE, ORDERED that Plaintiff's Application for Free Process and Affidavit of Indigency (Doc. 8) is **GRANTED**;

It is **FURTHER ORDERED** that, within thirty (30) days from entry of this order, Plaintiff shall send to the Clerk an initial partial payment of \$37.80 or show cause why the payment should be excused;

It is **FURTHER ORDERED** that the Clerk is directed to provide Plaintiff with two copies of this order, and that Plaintiff make the necessary arrangements to attach one copy of this order to the check in the amount of the initial partial payment;

It is **FINALLY ORDERED** that, after payment of the initial partial fee, Plaintiff shall make monthly payments of twenty percent (20%) of the preceding month's income credited to his account or show cause why the designated payments should be excused.



KEVIN R. SWEAZEA
UNITED STATES MAGISTRATE JUDGE