

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA**

**ANTONIO TYSON**

**CIVIL ACTION**

**VERSUS**

**NO. 08-4445**

**ROBERT C. TANNER-WARDEN, JEFFERY  
TRAVIS-EX WARDEN, JAMES LEBLANC-  
SECRETARY, RICHARD STALDER-EX  
SECRETARY, TIM CRAWFORD-MAJOR,  
WADE RIGDON-CAPTAIN**

**SECTION "I"(4)**

**ORDER AND REASONS**

The plaintiff, Antonio Tyson, filed a **Motion to Clarify Costs (Rec. Doc. No. 185)** in which he requests that the Court rescind its pauper order directing deductions from his prison account to pay the \$350.00 filing fee. Tyson claims that he intended to file a *habeas corpus* action which required only a \$5.00 filing fee.

Tyson, a frequent filer in this Court,<sup>1</sup> filed the captioned federal civil rights action on the form reserved for the filing of prisoner complaints pursuant to 42 U.S.C. § 1983.<sup>2</sup> Along with his complaint, he submitted a motion to proceed in forma pauperis, with the statement of account

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<sup>1</sup>The records of this Court indicate that Tyson has filed five prisoner civil rights suits under § 1983 and two habeas corpus petitions under 28 U.S.C. § 2254. See Civ. Action No. 10-1174“C”(2), Civ. Action No. 10-1097“F”(6) (§ 2254), Civ. Action No. 10-335“F”(6) (§2254), Civ. Action No. 10-132“A”(1), Civ. Action No. 09-7619“S”(1), Civ. Action No. 08-4599“C”(1), Civ. Action No. 08-4445“I”(4).

<sup>2</sup>Rec. Doc. No. 1.

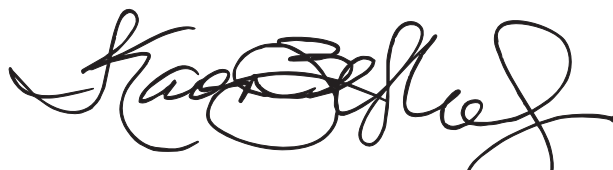
required for the filing of civil, non-habeas matters by a prisoner.<sup>3</sup> After considering his motion, the Court ordered that prison officials make deductions from plaintiff's prisoner account until the applicable \$350.00 filing fee is paid in full pursuant to 28 U.S.C. § 1915 and Prison Litigation Reform Act of 1996.

These filings indicate that Tyson intended to file a civil rights complaint under § 1983. The Court further notes that the monetary and other relief sought in this case are not available through habeas corpus, which is reserved for non-monetary relief from a state judgment of conviction and sentence. *See Preiser v. Rodriguez*, 411 U.S. 475, 500 (1973). Nevertheless, if Tyson wishes to voluntarily dismiss this case and pursue his rights under § 2254, he is free to do so. This, however, will not end the deductions for payment of the fee in this case.

The record is clear that Tyson intended to file and pursue a civil rights case under § 1983 and not a habeas corpus petition. His frequent filings in this federal court would also tend to show that Tyson knew exactly what he was filing. Accordingly,

**IT IS ORDERED** that Antonio Tyson's **Motion to Clarify Costs (Rec. Doc. No. 185)** is **DENIED**.

New Orleans, Louisiana, this 4<sup>th</sup> day of November, 2010



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**KAREN WELLS ROBY**  
**UNITED STATES MAGISTRATE JUDGE**

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<sup>3</sup>Rec. Doc. No. 2.