

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
HELENA DIVISION**

CLIFFORD EATON
REG. #12878-074

PETITIONER

V.

NO: 2:11CV00156 JMM/HDY

T.C. OUTLAW

RESPONDENT

ORDER

Plaintiff, currently incarcerated at the Federal Correctional Institution in Forrest City, filed a *pro se* complaint, (docket entry #2), on September 6, 2011, and he was granted leave to proceed *in forma papuperis*. Plaintiff's complaint challenges the conditions of his confinement, does not seek earlier release, and was docketed as a civil rights complaint pursuant to *Bivens v. Six Unknown Agents of Fed. Bureau of Narcotics*, 403 U.S. 388 (1971). On October 13, 2011, Plaintiff filed a motion for reconsideration of the order granting him leave to proceed *in forma pauperis*, in which he asserts that he wishes to have his complaint treated as a *habeas* petition, which has a \$5.00 filing fee, rather than *Bivens* action, which has a \$350.00 filing fee. Plaintiff's motion will be granted.

IT IS THEREFORE ORDERED THAT:

1. For good cause shown, Plaintiff's motion (docket entry #6) is GRANTED, and the order granting Plaintiff *in forma paupris* status (docket entry #4) is hereby vacated.
2. The Clerk is directed to change the designation of this case to a *habeas* petition, rather than a civil rights action.
3. Based on financial information Plaintiff has provided, he is not entitled to pursue a *habeas* action *in forma pauperis*.
4. Plaintiff is directed to submit, no later than 30 days after the entry of this order, the

\$5.00 filing fee for a *habeas* petition. Plaintiff's failure to do so will result in the dismissal of his petition.

DATED this 26th day of October, 2011.


UNITED STATES DISTRICT JUDGE