

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

NATHANIEL FITZGERALD

PLAINTIFF

v.

3:09-cv-00223-SWW-JTK

RICHARD BUSBY, et al.

DEFENDANTS

ORDER

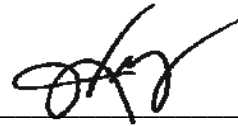
Plaintiff is a state inmate who filed a Complaint (Doc. No. 2) pursuant to 42 U.S.C. § 1983, without prepayment of the \$350.00 filing fee and costs, or an Application to Proceed In Forma Pauperis (IFP). This Court dismissed Plaintiff's Complaint for failure to respond to an Order directing payment of the filing fee or the filing of an IFP application, by Order dated July 1, 2010 (Doc. No. 14). Plaintiff subsequently filed a Motion for Reconsideration, which this Court construed as a Motion to Re-Open, and granted on October 6, 2010 (Doc. No. 24).

Under the Prison Litigation Reform Act (PLRA), in order for the Court to determine how the \$350 filing fee will be paid, the prisoner is required to submit an IFP application, together with a calculation sheet prepared and signed by an authorized official of the incarcerating facility. This calculation sheet reflects the deposits and monthly balances in the inmate's trust account at the facility during the six-month period immediately preceding the filing of the complaint. See 28 U.S.C. § 1915(a)(2). However, the Act also provides that **in no event shall a prisoner be prohibited from bringing a civil action because he "has no assets and no means by which to pay the initial partial filing fee."** 28 U.S.C. § 1915(b)(3). Accordingly,

IT IS THEREFORE ORDERED THAT Plaintiff must submit either the \$350 statutory filing fee or an In Forma Pauperis application within fifteen (15) days of the entry date of this Order.¹

The Clerk is directed to send to the Plaintiff an In Forma Pauperis application, together with the filing fee calculation sheet.

DATED this 20th day of October, 2010.



JEROME T. KEARNEY
UNITED STATES MAGISTRATE JUDGE

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The Plaintiff is hereby notified of his responsibility to comply with the Local Rules of the Court, including Rule 5.5(c)(2), which states: “. . . If any communication from the Court to a pro se plaintiff is not responded to within thirty (30) days, the case may be dismissed without prejudice. Any party proceeding pro se shall be expected to be familiar with and follow the Federal Rules of Civil Procedure.”