

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

LARRY DRAY BARBER

PLAINTIFF

V.

CASE NO. 3:11CV00097 BRW/BD

OIC HAROLD, et al.

DEFENDANTS

ORDER

Plaintiff Larry Dray Barber filed this case under 42 U.S.C. § 1983 (docket entry #1) on June 3, 2011. Upon review of the record, the Court notes that Mr. Barber has not filed a motion to proceed *in forma pauperis* or paid the filing fee.

The filing fee for a complaint under 42 U.S.C. § 1983 is \$350.00. Under the Prison Litigation Reform Act (“PLRA”), a prisoner who is allowed to file a civil case *in forma pauperis* still must pay the filing fee. 28 U.S.C. §1915(b)(1). The only question is whether he must pay the entire filing fee at the start of the lawsuit or in installments over a period of time.

If he wants to proceed *in forma pauperis*, Mr. Barber must file an application and a calculation sheet prepared and signed by an authorized officer of the correctional facility where he is being held. Based on information in the application and calculation sheet, the Court will assess an initial, partial filing fee if Mr. Barber has enough money in his prison trust account. The rest of the filing fee will then be collected in monthly payments until it is paid in full. 28 U.S.C § 1915(b)(1)-(2). If the case is dismissed for any reason before

trial, the full amount of the \$350.00 filing fee will still be collected, and no part of the filing fee will be refunded.

So, if Mr. Barber wishes to go forward with this case, he must file an application to proceed *in forma pauperis* or pay the \$350.00 filing fee within thirty days of the date of this Order. The Clerk of Court is directed to forward Mr. Barber an *in forma pauperis* application, along with a copy of this Order.

Mr. Barber claims that an officer at the Craighead County Jail used excessive force against him and that his medical needs have been ignored, but he does not identify the individuals responsible for the conduct that caused him harm. For that reason, Mr. Barber is ordered to file an amended complaint. In the amended complaint, Mr. Barber should specifically name those individuals who caused him to suffer injury.

In addition, Mr. Barber names the Craighead County Jail as a Defendant in this lawsuit; but a jail is not an entity that can be sued under § 1983. See *La Garza v. Kandiyohi County Jail*, 18 Fed. Appx. 436 (8th Cir. 2001) (unpub. table op.) (affirming dismissal of county jail on grounds that a jail is not an entity subject to suit under § 1983). For that reason, the Craighead County Jail is not a proper defendant. Mr. Barber must file his amended complaint within thirty (30) days.

Failure to comply with this Order may result in dismissal of this case without prejudice under Local Rule 5.5(c)(2).

IT IS SO ORDERED this 6th day of June, 2011.


UNITED STATES MAGISTRATE JUDGE