

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

MARK A. BUTLER

PLAINTIFF

v.

3:14CV00030-KGB-JJV

DOES, Infirmery Staff Members, Craighead
County Detention Facility; *et al.*

DEFENDANTS

ORDER

Plaintiff Mark Butler, an inmate at the Craighead County Detention Facility, filed this action *pro se* pursuant to 42 U.S.C. § 1983. However, his Complaint was unaccompanied by a filing fee or a properly completed Application to Proceed Without Prepayment of Fees and Affidavit (Application). If Plaintiff intends to pursue this matter, he must pay the statutory filing fee of \$400 or submit a properly completed Application.¹

Under the Prison Litigation Reform Act of 1995 (“PLRA”), a prisoner who is permitted to file a civil action *in forma pauperis* still must pay the full statutory filing fee of \$350. 28 U.S.C. § 1915(b)(1). The only question is whether a prisoner will pay the entire filing fee at the initiation of the proceeding or in installments over a period of time. *Ashley v. Dilworth*, 147 F.3d 715, 716 (8th Cir. 1998). Even if a prisoner is without assets and unable to pay an initial filing fee, he will be allowed to proceed with his § 1983 claims and the filing fee will be collected by the Court in installments from the prisoner’s inmate trust account. 28 U.S.C. § 1915(b)(4). **If the prisoner’s case is subsequently dismissed for any reason, including a determination that it is frivolous, malicious, fails to state a claim, or seeks monetary relief against a defendant who is immune**

¹Effective May 1, 2013, the statutory filing fee increased to \$400, due to the implementation of a \$50 administrative fee. This fee, however, does not apply to plaintiffs who are granted *in forma pauperis* status.

from such relief, the full amount of the \$350 filing fee will be collected and no portion of this filing fee will be refunded to the prisoner.

The PLRA requires that Plaintiff submit a proper and complete Application to Proceed Without Prepayment of Fees and Affidavit, along with a calculation sheet prepared and signed by an authorized officer of the detention center. Plaintiff must submit, within thirty (30) days from entry of this Order, either: (1) the statutory filing fee of \$400; or (2) a proper and complete Application, **with the required calculation sheet signed by an authorized official of the detention center at which he is confined.**

The Court also notes that Plaintiff has identified all Defendants as “Does.” Since the identity of the Defendants is not known, the Clerk cannot issue summons, and the Marshal is unable to serve unknown persons. Therefore, the Court will provide Plaintiff an opportunity to submit an Amended Complaint, together with information identifying the Defendants, within thirty days of the date of this Order. Plaintiff is cautioned that an Amended Complaint will render his original Complaint without legal effect.² **The Amended Complaint should include: 1) the name of all the parties he believes deprived him of his constitutional rights and whom he wishes to sue in this action; 2) specific facts against each named Defendant in a simple, concise, and direct manner; 3) whether he is suing each Defendant in his/her individual or official capacity, or in both capacities; 4) state how he was harmed; and 5) whether he was a pretrial detainee at the time of the incident(s).** In accordance with the above,

²“An amended complaint ‘ordinarily supersedes the original and renders it of no legal effect.’” *In Home Health, Inc. v. Prudential Ins. Co. Of America*, 101 F.3d 600, 603 (8th Cir. 1996), quoting *International Controls Corp. v. Vesco*, 556 F.2d 665, 668 (2d Cir. 1994) (other citations omitted).

IT IS THEREFORE ORDERED that:

1. The Clerk shall mail to Plaintiff an Application to Proceed Without Prepayment of Fees and Affidavit and calculation sheet.
2. Plaintiff shall submit within thirty (30) days of entry of this Order either: (1) the \$400 statutory filing fee; or (2) a proper and complete Application, with the required calculation sheet completed and signed by an authorized prison official. Failure to do so may result in dismissal of this action without prejudice for failure to prosecute, pursuant to Local Rule 5.5(c)(2).
3. The Clerk shall mail the 42 U.S.C. § 1983 complaint form to Plaintiff with this Order. If Plaintiff wishes to amend his Complaint, he may complete the new complaint form in its entirety in accordance with this Order, mark it as "Amended Complaint," and file within thirty days of the date of this Order.
4. The Clerk shall send a copy of this Order to the Craighead County Detention Facility, 901 Willett Road, Jonesboro, AR 72401.
5. Service is not appropriate at this time.

IT IS SO ORDERED this 5th day of February, 2014.



JOE J. VOLPE
UNITED STATES MAGISTRATE JUDGE