

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

DARRICK L. FERGUSON, JR.

PLAINTIFF

V.

NO: 3:16CV00033 JLH/PSH

T. HARRELL *et al*

DEFENDANTS

ORDER

Plaintiff Darrick L. Ferguson, Jr., who is currently held at the Craighead County Detention Facility, filed a *pro se* complaint on February 1, 2016. The \$400.00 filing and administrative fees were not paid, and plaintiff did not file an application for leave to proceed *in forma pauperis*. Accordingly, if plaintiff intends to pursue this matter, he must submit, no later than 30 days after the entry date of this order, either the full \$350.00 filing fee and \$50.00 administrative fee, or a signed application for leave to proceed *in forma pauperis*, along with a trust fund calculation sheet and certificate, signed by an authorized official. Plaintiff's failure to do so will result in the recommended dismissal of his complaint.

Under the Prison Litigation Reform Act of 1995, a prisoner who is permitted to file a civil action *in forma pauperis* still must pay the full statutory filing fee of \$350.00, but the \$50.00 administrative fee is waived. 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 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 from such relief, the full amount of the filing and any applicable administrative fees will be collected and no portion of the fees will be refunded to the prisoner.

So that the Court can determine how the fees will be paid, plaintiff is required to submit, no later than thirty (30) days after this order's entry date, either the full \$400.00 filing and administrative fees, or a fully completed and signed application for leave to proceed *in forma pauperis*, including a trust fund calculation sheet and certificate signed by an authorized official. If Plaintiff is granted *in forma pauperis* status, the Court will assess an initial partial filing fee if sufficient funds exist, and will also direct the future collection of monthly installment payments from his account until the \$350.00 filing fee is paid in full. *Id.* 1915(b)(1) and (2). However, no prisoner will be prohibited from bringing a civil action because he "has no assets and no means by which to pay the initial partial filing fee." *Id.* 1915(b)(4).

IT IS THEREFORE ORDERED THAT:

1. The Clerk is directed to forward an *in forma pauperis* application, calculation sheet, and certificate, to plaintiff.
2. No later than 30 days after the entry date of this order, plaintiff must submit the full \$400.00 filing and administrative fees, or file a fully completed and signed *in forma pauperis* application, along with the trust fund calculation sheet and certificate, signed by an authorized official. Plaintiff's failure to do so will result in the recommended dismissal of his complaint.
3. Service is not appropriate at this time.

DATED this 2nd day of February, 2016.

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke extending to the right.

UNITED STATES MAGISTRATE JUDGE