

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

JARKEVIOUS COLLINS; *et al.*

PLAINTIFFS

v.

3:16CV00039-DPM-JJV

CRAIGHEAD COUNTY DETENTION CENTER

DEFENDANTS

ORDER

This action is brought by four Plaintiffs - Jarkevious Collins, Davanta Iverson, Kerry Kendred, and Lakhraj Manohar. (Doc. No. 1.) None have filed an Application to Proceed Without Prepayment of Fees and Affidavit (“Application”) or paid the filing fee, however. Additionally, the Plaintiffs’ Complaint is deficient and they will be afforded an opportunity to amend.

Under the Prison Litigation Reform Act (“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 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.**

For this action to proceed jointly on an *in forma pauperis* basis, **each Plaintiff must each submit a completed Application to Proceed Without Prepayment of Fees and Affidavit.** The

Clerk of Court shall send Applications to each of the four Plaintiffs. They should return those completed forms within thirty (30) days of the date of this Order. Failure to do so will result in the dismissal of their claims without prejudice. Alternatively, each may submit his share of the statutory filing fee.

Plaintiffs' Complaint is also deficient. First, they have named only the Craighead County Detention Center as a defendant. It is settled law that departments of local government are not suable entities under section 1983. *Ketchum v. City of West Memphis*, Ark., 974 F.2d 81, 82 (8th Cir. 1992). Additionally, their statement of claim fails to explain how each of their rights were violated. The Complaint refers only to a single, unspecified individual who was allegedly denied the use of a telephone at the detention center. (Doc. No. 1 at 3.)

Plaintiffs will be given an opportunity to amend their Complaint. They should: 1) name all the parties they believe deprived them of their constitutional rights and whom they wish to sue; 2) provide specific facts against each named defendant in a simple, concise, and direct manner, including dates, times, and places, if applicable; 3) indicate whether they are suing each defendant in his/her individual or official capacity, or in both capacities; 4) how they were harmed; and 5) state whether they were incarcerated at the time as pretrial detainees. Plaintiffs are cautioned that an Amended Complaint renders their previous Complaint without legal effect. Only claims properly set out in the Amended Complaint will be allowed to proceed. If Plaintiffs elect to amend, they should submit their Amended Complaint within thirty (30) days of the date of this Order. **Finally, they are reminded to have an Amended Complaint signed by all Plaintiffs.** *See Fed. R. Civ. P. 11(a).*

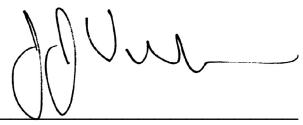
IT IS, THEREFORE, ORDERED that:

1. The Clerk of Court shall send Applications to Proceed Without Prepayment of Fees

and Affidavit and calculation sheets to each Plaintiff. Plaintiffs must submit either completed applications or their shares of the statutory filing fee within thirty (30) days of this Order's entry.

2. The Clerk of Court shall also include a section 1983 complaint form with this Order. If Plaintiffs wish to amend their Complaint, they may complete the new complaint form in its entirety in accordance with this Order, mark it as "Amended Complaint," and file it within thirty (30) days of the date of this Order's entry. Plaintiffs' Complaint, as it now stands, is deficient and their claims may be dismissed after that time has elapsed.

DATED this 8th day of February, 2016.



JOE J. VOLPE
UNITED STATES MAGISTRATE JUDGE