

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

ROBBY ALLEN HARPER

PLAINTIFF

v.

No. 3:16-cv-206-DPM

RON HUNTER, Judge;
RYAN SKELTON, Probation Officer

DEFENDANTS

ORDER

1. Motion to proceed *in forma pauperis*, No 1, granted. Harper must pay the filing fee, but over time. 28 U.S.C. § 1915(b)(1). The Court won't assess an initial partial filing fee because Harper can't afford to pay one. But Harper's custodian must collect monthly payments from Harper's prison trust account each time the amount in the account exceeds \$10.00. These payments will be equal to twenty percent of the preceding month's income credited to the account; and they will be collected and forwarded to the Clerk of the Court until the \$350.00 filing fee is paid in full. 28 U.S.C. § 1915(b)(2). The payments forwarded on Harper's behalf must be clearly identified by case name and case number.

2. The Court directs the Clerk to send a copy of this Order to the Sheriff of the Poinsett County Detention Center, 1500 Justice Drive, Harrisburg, Arkansas 72432.

3. The Court must screen Harper's complaint. 28 U.S.C. § 1915A. Harper says that Poinsett County Circuit Judge Ron Hunter unjustifiably sentenced him to jail time. But—with one exception that doesn't apply here—Judge Hunter can't be sued for acts done in his capacity as a judge. *Mireles v. Waco*, 502 U.S. 9, 11-12 (1991). Harper's claim against Judge Hunter is therefore dismissed with prejudice.

4. Before Harper can proceed with his claim against Skelton, the Court needs more information about the state criminal case. Unless Harper's sentence has been reversed, expunged, or declared invalid, he can't challenge it in this § 1983 lawsuit. *Heck v. Humphrey*, 512 U.S. 477, 486-87 (1994). Harper must therefore file an amended complaint setting out the status of his state conviction and sentence and giving details about how Skelton allegedly violated his rights. If Harper doesn't file an amended complaint by 25 September 2016, then his claim against Skelton will be dismissed without prejudice. LOCAL RULE 5.5(c)(2).

So Ordered.

D.P. Marshall Jr.
D.P. Marshall Jr.
United States District Judge

26 August 2016