

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

CAREY WAYNE PEDEN

PLAINTIFF

V.

NO: 3:16CV00280 KGB/PSH

POINSETT COUNTY JAIL *et al*

DEFENDANTS

ORDER

Plaintiff Carey Wayne Peden, who is currently held at the Poinsett County Detention Center, filed a *pro se* complaint on October 11, 2016. Peden did not pay the \$400.00 filing and administrative fees, and his application for leave to proceed *in forma pauperis* is incomplete, in that it does not contain any institutional account financial information. Accordingly, if Peden 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. Peden'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). 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, Peden is required to submit, no later than 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 Peden 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).

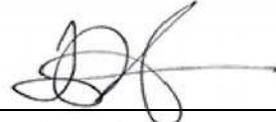
IT IS THEREFORE ORDERED THAT:

1. Peden's motion for leave to proceed *in forma pauperis* (Doc. No. 1) is DENIED.
2. The Clerk is directed to forward an *in forma pauperis* application, calculation sheet, and certificate, to Peden.
3. No later than 30 days after the entry date of this order, Peden 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. Peden's failure to do so will result in the recommended dismissal of his complaint.

4. Service is not appropriate at this time.

DATED this 14th day of October, 2016.

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

UNITED STATES MAGISTRATE JUDGE