

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

JONATHAN W. SPARKS,
ADC #651677

PLAINTIFF

v. No. 3:17-cv-100-DPM

L.D. GIBSON, Public Defender, Poinsett County DEFENDANT

ORDER

1. Motion to proceed *in forma pauperis*, № 5, granted. Sparks 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 Sparks can't afford to pay one. But his custodian must collect monthly payments from Sparks'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 Sparks'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 Poinsett County Sheriff at the Poinsett County Detention Center, 1500 Justice Drive, Harrisburg, Arkansas 72432.

3. Sparks is in jail awaiting trial on state criminal charges. Sparks makes complaints about his public defender's representation. *No 1 at 4*. The Court must abstain from proceeding with Sparks's federal case, though, because the criminal case is ongoing, Arkansas has an important interest in enforcing its criminal laws, and Sparks may raise his constitutional claims during his state criminal proceedings. *Younger v. Harris*, 401 U.S. 37, 43-45 (1971). Further, there's no indication of bad faith, harassment, or any other extraordinary circumstances that would make abstention inappropriate. *Tony Alamo Christian Ministries v. Selig*, 664 F.3d 1245, 1254 (8th Cir. 2012). This case must, therefore, be put on hold until there's a final disposition of Sparks's pending state charges. *Wallace v. Kato*, 549 U.S. 384, 393-94 (2007); *Yamaha Motor Corporation, U.S.A. v. Stroud*, 179 F.3d 598, 603-04 (8th Cir. 1999).

* * *

This case is stayed. Sparks can move to reopen this case after final disposition of his state case, including any appeal. Any motion to reopen must be filed within sixty days of that final disposition. If Sparks doesn't file a timely motion to reopen or a status report by 28 June 2018, then the Court will reopen the case and dismiss it without prejudice.

So Ordered.

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

26 June 2017