

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

STEVEN B. JOHNSON
#656903

PLAINTIFF

v.

4:09CV00927HLJ

GARY STEWART

DEFENDANT

ORDER

By Order dated December 15, 2009, this Court denied plaintiff's motion to proceed in forma pauperis in this action filed pursuant to 42 U.S.C. § 1983, and further directed plaintiff to submit a new application together with the required calculation sheet (DE #3). Plaintiff has now submitted the calculation sheet in accordance with that Order (DE #5), and the Court will construe such as a renewal of his motion to proceed in forma pauperis pursuant to 28 U.S.C. § 1915.

Since plaintiff has now submitted the appropriate financial information which makes the showing required by § 1915(a), his request to proceed in forma pauperis will be granted.¹

Pursuant to 28 U.S.C. § 1915(b)(1), plaintiff is required to pay the statutory filing fee of \$350 for this action. Plaintiff has been without sufficient funds for six months and is presently without

¹The plaintiff is hereby notified of his responsibility to comply with the Local Rules of the Court, including Rule 5.5(c)(2), which states: "...If any communication from the Court to a pro se plaintiff is not responded to within thirty (30) days, the case may be dismissed without prejudice. Any party proceeding pro se shall be expected to be familiar with and follow the Federal Rules of Civil Procedure."

In addition, if at some stage in the litigation of this action, plaintiff decides not to continue to prosecute this action, plaintiff should notify the Court in the form of a motion for a voluntary dismissal pursuant to Fed.R.Civ.P. 41.

If plaintiff has not completely exhausted his administrative remedies with respect to all his claims, he may file a motion to dismiss his unexhausted claims and then proceed with this complaint on the exhausted claims.

sufficient funds. Accordingly, the Court will not assess an initial partial filing fee. Plaintiff is obligated, however, to make monthly payments of 20% of the preceding month's income credited to plaintiff's prison trust account each time the amount in the account exceeds \$10.00, until the filing fee is paid in full. Plaintiff's present custodian, the Central Arkansas Community Punishment Center, and any future custodians, are required to send to the Clerk of the Court these payments from plaintiff's prison trust account until the statutory filing fee of \$350 is paid in full. 28 U.S.C. § 1915(b)(2).

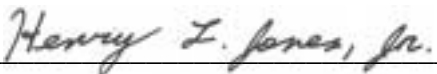
Having reviewed the complaint, it appears to the Court at this time that service is appropriate for defendant.

In accordance with the above, IT IS, THEREFORE, ORDERED that:

1. Plaintiff's request to proceed in forma pauperis (DE #5) is GRANTED.
2. Plaintiff is obligated to pay the statutory filing fee of \$350 for this action. Plaintiff's present custodian, the Administrator of the Central Arkansas Community Punishment Center, and any future custodians shall collect monthly payments from plaintiff's prison trust account in an amount equal to 20 percent of the preceding month's income credited to the prisoner's trust account each time the amount in the account exceeds \$10.00, and shall forward those payments to the Clerk of the Court in accordance with 28 U.S.C. § 1915(b)(2), until a total of \$350 has been collected and forwarded to the Clerk of the Court. The payments shall be clearly identified by the name and number assigned to this action.
3. Service is appropriate for the defendant.
4. The Clerk of the Court shall prepare summons for the defendant.
5. The United States Marshal is directed to serve a copy of the complaint (DE #2) and summons on the defendant Dr. Gary Stewart without prepayment of fees and costs or security therefore.
6. The Clerk of the Court is directed to send a copy of this Order to the Central Arkansas

Community Punishment Center, 4823 West 7th Street, Little Rock, AR 72205.

IT IS SO ORDERED this 12th day of January, 2010.


United States Magistrate Judge