

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

ELLIS TRICE,  
ADC #144462

PLAINTIFF

v.

Case No. 4:11-cv-622-DPM

DONALD EVERSOLE, Detective,  
Van Buren Sheriff's Department;  
PATTI BONEWELL, Detective,  
Van Buren Sheriff's Department;  
CRAWFORD COUNTY; and  
PULASKI COUNTY POLICE DEPARTMENT

DEFENDANTS

ORDER

Ellis Trice, a prisoner at the Delta Regional Unit of the Arkansas Department of Correction, filed a *pro se* § 1983 complaint against the Defendants. *Document No. 1*. If Trice wishes to pursue this action, he must either: (1) pay the \$350 filing fee in full; or (2) file a properly completed application to proceed *in forma pauperis* and a properly completed prisoner calculation sheet.

Trice should be aware that 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.A. § 1915(b)(1) (West 2006). The only question is whether he 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, 716–17 (8th Cir. 1998) (*per curiam*). If the case is later dismissed for any reason—including a determination that it is frivolous, malicious, fails to state a claim, or seeks monetary relief against an immune defendant—the full amount of the \$350 filing fee will be collected and no portion of this filing fee will be refunded to the prisoner. *In re Tyler*, 110 F.3d 528, 529–30 (8th Cir. 1997).

The Court also reminds Trice of his responsibility to comply with the Federal Rules of Civil Procedure and Local Rule 5.5(c)(2), which states:

It is the duty of any party not represented by counsel to promptly notify the Clerk and the other parties to the proceedings of any change in his or her address, to monitor the progress of the case, and to prosecute or defend the action diligently. A party appearing for himself/herself shall sign his/her pleadings and state his/her address, zip code, and telephone number. 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.

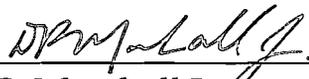
Finally, 28 U.S.C. § 1915(g) provides that:

In no event shall a prisoner bring a civil action or appeal a judgment in a civil action or proceeding [*in forma pauperis*] if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.

28 U.S.C.A. § 1915(g) (West 2006).

The Court directs the Clerk to send Trice an application to proceed *in forma pauperis* and a prisoner calculation sheet. Trice has until 15 October 2011 to either pay the \$350 filing fee in full or file his application to proceed *in forma pauperis* and his prisoner calculation sheet. If he does not do one or the other, the Court will dismiss his case without prejudice pursuant to Local Rule 5.5(c)(2).

So Ordered.

  
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D.P. Marshall Jr.  
United States District Judge

8 September 2011