IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
PINE BLUFF DIVISION

CHARLES WEEKLY/KHABIR   **PLAINTIFF**
ADC #86771

v.   **5:08-CV-00024-WRW**

LARRY NORRIS, *et al.*   **DEFENDANTS**

ORDER

By Order entered March 21, 2008,[1] the Magistrate Judge's Report and Recommendations were adopted in their entirety and Plaintiff's case was dismissed for failure to state a constitutional claim. On April 9, 2008, Plaintiff requested leave to proceed *in forma pauperis*, presumably on appeal.[2] Since Plaintiff failed to properly file a notice of appeal, his *in forma pauperis* application was denied.[3] On May 28, 2008, Plaintiff filed an untimely notice of appeal[4].

On October 31, 2008, the Eighth Circuit Court of Appeals summarily affirmed the Judgment of the District Court and granted Plaintiff's April 9, 2008, *in forma pauperis* application.[5] The Eighth Circuit has assessed Plaintiff the full $455.00 appellate filing and docketing fees. The collection of those fees has been remanded to this Court.

A prisoner who is permitted to file an appeal *in forma pauperis* still must pay the full statutory appellate filing fee of $455.[6] Method and timing of payment is the only issue to be

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[1]Doc. No. 8.

[2]Doc. No. 11; 28 U.S.C. § 1915.

[3]Doc. No. 12.

[4]Doc. No. 14.

[5] Doc. No. 19.

[6]*Id.*; 28 U.S.C. § 1915(b)(1).

resolved.[7] Plaintiff has submitted a certificate from an authorized official at the incarcerating facility certifying the sums in his institutional account for the six months immediately preceding the date of his application. Based on this information, an initial partial filing fee of $1.20 is hereby assessed based on 28 U.S.C. § 1915(b)(1). Upon payment of this initial partial filing fee, Plaintiff must make monthly installment payments equal to 20% of the preceding month's income credited to his institutional account each time the amount in the account exceeds $10.00, until the statutory filing fee is paid in full. Plaintiff's custodian is required to send to the Clerk of the Court the initial partial filing fee, and thereafter the monthly payments, from Plaintiff's institutional account.[8]

Accordingly, Plaintiff must pay the statutory appellate filing fee of $455.00 for this appeal. As Plaintiff's present custodian, the Director of the Arkansas Department of Correction or his designee is directed to collect from Plaintiff's institutional account an initial partial filing fee of $1.20, and is directed to forward that amount to the Clerk of the Court. The payment must be clearly identified by the name and number assigned to this action.

Thereafter, the Director of the Arkansas Department of Correction or his designee, or any future custodian, is directed to collect from Plaintiff's institutional account the $453.80 balance of the filing fee by collecting monthly payments equal to 20% of the preceding month's income credited to Plaintiff's account each time the amount in the account exceeds $10.00. The Director of the Arkansas Department of Correction or his designee, or any future custodian, is further directed to forward the payments to the Clerk of the Court in accordance with 28 U.S.C. § 1915(b)(2), until

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[7]*Henderson v. Norris*, 129 F.3d 481, 483 (8th Cir. 1997) (stating that "prisoners who appeal judgments in civil cases must sooner or later pay the appellate filing fees in full" whether up front or in installments over time).

[8]*Id.*; 28 U.S.C. § 1915(b)(2).

a total of $455.00 has been collected and forwarded to the Clerk. The payments must be clearly identified by the name and number assigned to this action.

The Clerk of the Court is directed to send a copy of this Order to the Warden of the Varner Super Max Unit, P.O. Box 400, Grady, Arkansas, 71644-0400; to the Arkansas Department of Correction Trust Fund Centralized Banking Office, P.O. Box 8908, Pine Bluff, Arkansas, 71611; and to the Arkansas Board of Correction and Community Punishment Compliance Division, P.O. Box 20550, Pine Bluff, Arkansas, 71612-0550.

IT IS SO ORDERED this 25th day of February, 2009.

/s/ Wm. R. Wilson, Jr._____
UNITED STATES DISTRICT JUDGE