

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

RICKEY BROOKS
ADC # 108335

PLAINTIFF

V.

5:09CV00017 JMM/HDY

LARRY NORRIS, Director, Arkansas Department of Correction; GRANT HARRIS, Warden, Varner Unit, Arkansas Department of Correction; MARSHALL D. REED, Warden, Ouachita Regional Unit; Arkansas Department of Correction; GAYLIN LAY, Warden, Cummins Unit, Arkansas Department of Correction; and COMELLA GARRETT, Supervisor, Varner Unit, Arkansas Department of Correction

DEFENDANTS

ORDER

Plaintiff, an inmate at the Cummins Unit of the Arkansas Department of Correction, filed this action *pro se* pursuant to 42 U.S.C. § 1983, raising claims related to administrative procedures at the Arkansas Department of Correction. However, his Complaint is unaccompanied by a filing fee or a properly completed motion for *in forma pauperis* status. If Plaintiff intends to pursue this matter, he must pay the statutory filing fee of \$350 or submit a properly completed Application to Proceed *In Forma Pauperis*.

Under the Prison Litigation Reform Act of 1995 (“PLRA”), 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. §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 section 1983 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 \$350 filing fee will be collected and no portion of this filing fee will be refunded to the prisoner.**


The PLRA requires that Plaintiff submit a proper and complete Application to Proceed *In Forma Pauperis*, along with a calculation sheet, prepared and signed by an authorized officer of the Detention Center. Plaintiff is therefore directed to submit, within thirty (30) days from entry of this Order, either: (1) the statutory filing fee of \$350; or (2) a proper and complete Application to Proceed *In Forma Pauperis*, **with the required calculation sheet signed by an authorized official of the detention center at which he is confined.**

IT IS THEREFORE ORDERED that:

1. The Clerk is directed to mail Plaintiff an *in forma pauperis* application and calculation sheet.
2. Plaintiff must submit, within thirty days of entry of this Order, either: (1) the \$350 statutory filing fee; or (2) a proper and complete *in forma pauperis* application, with the required calculation sheet completed and signed by an authorized prison official. Failure to do so may result in dismissal of this action without prejudice.

3. Service is not appropriate on Defendants at this time.

DATED this 26 day of January, 2009.

A handwritten signature in black ink, appearing to read "H. J. Jones", with a long horizontal flourish extending to the right.

UNITED STATES MAGISTRATE JUDGE