

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

ROBERT SOTO,
ADC #128324

PLAINTIFF

v.

5:10CV00212JMM/JTK

RAY HOBBS, et al.

DEFENDANTS

AMENDED ORDER

This Order shall amend and supercede docket entry # 6, entered August 2, 2010.

Plaintiff, a state inmate proceeding pro se, seeks relief in a civil rights action pursuant to 42 U.S.C. § 1983 and has requested leave to proceed in forma pauperis pursuant to 28 U.S.C. § 1915 (Doc. No. 1).

Plaintiff has submitted a declaration that makes the showing required by § 1915(a). Accordingly, the request to proceed in forma pauperis will be granted.

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 submitted a certified copy of his Inmate Trust Fund Account Statement. Based on that information, an initial partial filing fee of \$18.87 is assessed by this Order. If the prisoner's account does not contain the full amount assessed as an initial partial filing fee, the Director of the Arkansas Department of Correction shall withdraw from the account any portion of the initial filing fee available, even if the account balance is under \$10.00. Regardless of the balance in the account, the Director of the Arkansas Department of Correction shall continue to withdraw funds until the initial partial filing fee has been paid in full.

Thereafter, plaintiff will be obligated to make monthly payments in the amount of twenty percent (20%) of the preceding month's income credited to plaintiff's prison trust account each time the amount in the account exceeds \$10.00. The Arkansas Department of Correction is required to send to the Clerk of the Court the initial partial filing fee, and thereafter the monthly payments from the plaintiff's prison trust account when the amount exceeds \$10.00, until the statutory filing fee is paid in full. 28 U.S.C. § 1915(b)(2).

Having reviewed plaintiff's complaint, the Court finds that service is appropriate for some of the defendants. In accordance with the above,

IT IS, THEREFORE, ORDERED that:

1. Plaintiff's request to proceed in forma pauperis (Doc. No. 1) is GRANTED.¹
2. The Director of the Arkansas Department of Correction or his designee shall collect from plaintiff's prison trust account an initial partial filing fee in the amount of \$18.87 and shall forward the amount to the Clerk of the Court. Said payment shall be clearly identified by the name and number assigned to this action.

¹The plaintiff is hereby notified of the responsibility to comply with the Local Rules of the Court, including 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.

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.

In addition, if plaintiff has not completely exhausted his administrative remedies as to all his claims, as required by the PLRA, 42 U.S.C. Sect. 1997e, he may file a motion to voluntarily dismiss his unexhausted claims.

3. Thereafter, the Director of the Arkansas Department of Correction or his designee shall collect from plaintiff's prison trust account the \$331.13 balance of the filing fee by collecting monthly payments from the account in an amount equal to 20% 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 the payments to the Clerk of the Court in accordance with 28 U.S.C. § 1915(b)(2). Those payments also shall be clearly identified by the name and number assigned to this action.

4. Service is appropriate for the defendants Ray Hobbs, Larry D. May, Grant Harris, Jimmy Banks, Darryl A. Golden, R. Evans, Sammy Johnson, D. Boultinghouse, Donald Tate, Shirley Jones, N. Dial, and Curtis Meinzer.

5. The Clerk of the Court shall prepare summons for the defendants.

6. The United States Marshal is directed to serve a copy of the complaint and summons on the defendants in care of the Arkansas Board of Correction and Community Punishment Compliance Division, P.O. Box 20550, Pine Bluff, AR 71612-0550, without prepayment of fees and costs or security therefore.

7. The Clerk of the Court is directed to send a copy of this Order to the Arkansas Department of Correction Compliance Office, P.O. Box 20550, Pine Bluff, AR 71612; to the ADC Trust Fund Centralized Banking Office, P.O. Box 8908, Pine Bluff, AR 71611; and to the Warden of the Varner Unit, P.O. Box 600, Grady, AR 71644-0600.

IT IS SO ORDERED this 2nd day of August, 2010.



United States Magistrate Judge