

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

VIVIAN FREEMAN

PLAINTIFF

v.

Civil No. 11-5158

PATRICK R. DONAHOE

DEFENDANT

O R D E R

NOW on this 9th day of August 2011, comes on for consideration the **Magistrate Judge's Report and Recommendation** (Doc. 3), and plaintiff's objection thereto (Doc. 4). The Court has reviewed the Report and Recommendation and, being well and sufficiently advised, finds and orders as follows:

1. Plaintiff filed her complaint on June 29, 2011, and she seeks leave to proceed *in forma pauperis* ("IFP"), 28 U.S.C. § 1915. The Magistrate Judge has reviewed her request and has determined that plaintiff has the financial ability to pay the filing fee. For that reason, the Magistrate Judge recommends that the motion to proceed *in forma pauperis* be denied, and plaintiff be required to pay the full \$350.00 filing fee.

2. Plaintiff has responded by requesting that she be allowed to pay the filing fee in three monthly installments.

3. Under 28 U.S.C. § 1915(a)(1), the Court may authorize the commencement of a lawsuit "without prepayment of fees or security therefor, by a person who submits an affidavit that includes a statement of all assets such [person] prisoner possesses that the

person is unable to pay such fees or give security therefor." The Court agrees with the Magistrate Judge that plaintiff has not shown that she is unable to pay the filing fee in this case.

The Court is sympathetic to plaintiff's assertion that the payment of the filing fee all at once would pose a financial hardship on her. The Court notes, however, that if plaintiff does not pay the full filing fee, her complaint will be dismissed without prejudice to refile it when she is able to pay the filing fee.

IT IS THEREFORE ORDERED that Plaintiff's objection (Doc. 3) is hereby **overruled**;

IT IS FURTHER ORDERED that the Magistrate Judge's Report and Recommendation (Doc. 4) is hereby **adopted in toto**;

IT IS FURTHER ORDERED that, for the reasons stated in the Magistrate Judge's Report and Recommendation, plaintiff's motion for leave to proceed IFP is hereby **denied**. Plaintiff shall have until **August 22, 2011** to pay the \$350 filing fee. If such filing fee is not paid in full by that date, plaintiff's complaint will be dismissed without prejudice, and plaintiff may re-file her complaint at a later date if she so chooses.

IT IS SO ORDERED.

/s/ Jimm Larry Hendren
HON. JIMM LARRY HENDREN
UNITED STATES DISTRICT JUDGE