

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ERNEST MILLER, #T-97203,)	CIVIL NO. 2:08-00070 HWG/KSC
)	
)	
Plaintiff,)	ORDER GRANTING APPLICATION FOR
)	LEAVE TO PROCEED <i>IN FORMA</i>
vs.)	<i>PAUPERIS</i> AND DIRECTING
)	COLLECTION OF FILING FEE
JOE MCGRATH, TOM FETREL,)	
DAVID RUNNELS,)	
)	
Defendants.)	
_____)	

**ORDER GRANTING APPLICATION FOR LEAVE TO PROCEED
IN FORMA PAUPERIS AND DIRECTING COLLECTION OF FILING FEE**

Plaintiff is a state prisoner proceeding pro se. Plaintiff seeks relief pursuant to 42 U.S.C § 1983 and has requested leave to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915.

Plaintiff has submitted a declaration that makes the showing required by 28 U.S.C. § 1915(a). Accordingly, Plaintiff's request to proceed *in forma pauperis* is **GRANTED**. Plaintiff is required to pay the statutory filing fee of \$350.00 for this action. 28 U.S.C. §§ 1914(a), 1915(b)(1). When, as here, Plaintiff has insufficient funds available in his prison trust account, the court does not assess an initial partial filing fee. 28 U.S.C. § 1915(b)(1). Plaintiff is obligated, however, to make monthly payments of twenty percent of the preceding month's income credited to Plaintiff's prison trust account. These payments shall be collected and forwarded by the

appropriate agency to the Clerk of the Court each time the amount in Plaintiff's account exceeds \$10.00, until the filing fee is paid in full. 28 U.S.C. § 1915(b)(2).

The court is required to screen complaints brought by prisoners seeking relief against a government entity or officer or employee of a government entity. 28 U.S.C. § 1915A(a). The court has not yet screened the Complaint to determine whether it sufficiently states a claim and shall proceed in the normal course. After screening, if the court determines that Plaintiff's Complaint states a claim, the court will issue a written Order and will then instruct the Clerk of the Court to send Plaintiff the documents necessary to effect service.

CONCLUSION

1. Plaintiff'S request for leave to proceed *in forma pauperis* is GRANTED.

2. Plaintiff is obligated to pay the statutory filing fee of \$350.00 fo this action. **MIKE MCDONALD, WARDEN HIGH DESERT STATE PRISON (HDSP), or his designee, shall collect from Plaintiff's prison account** monthly payments in an amount equal to twenty percent of the preceding month's income credited to Plaintiff's prison account and shall forward those payments to the Clerk of Court each time the amount in the account exceeds \$10.00 in accordance with 28 U.S.C. § 1915(b)(2) until a total of \$350.00 has been collected and forwarded to the Clerk of Court.

THE PAYMENTS SHALL BE CLEARLY IDENTIFIED BY THE NAME AND NUMBER ASSIGNED TO THIS ACTION.

3. The Clerk of the Court is DIRECTED to serve a copy of this Order on Plaintiff and on **MIKE MCDONALD, WARDEN HDSP, P.O. BOX. 750, SUSANVILLE, CA 96127-0750.**

4. The court has not yet screened the Complaint to determine whether it sufficiently states a claim and shall proceed in the normal course. After screening, if the court determines that Plaintiff's Complaint states a claim, the court will issue a written Order and will then instruct the Clerk of the Court to send Plaintiff the documents necessary to effect service.

IT IS SO ORDERED.

Dated: Honolulu, Hawaii, January 5, 2009.



Kevin S.C. Chang
United States Magistrate Judge