

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA
PENSACOLA DIVISION

THEOPHILUS HYMAN,
Plaintiff,

vs.

Case No. 3:07cv179/MCR/MD

JOHN DOE, et al.
Defendants.

ORDER

This cause is before the court after having been transferred from the United States District Court, Jacksonville Division. Plaintiff filed a letter with the court, which that court construed as a civil rights complaint filed pursuant to 42 U.S.C. § 1983 because plaintiff was complaining about the conditions of his confinement at Santa Rosa Correctional Institution ("SRCI") and requested assistance from the court. Because SRCI is within the jurisdiction of this court, the case was transferred here.

If plaintiff wishes to proceed with this action, he will be required to file an amended complaint using forms provided by the court for filing this complaint. Local Rule 5.1(J) for the Northern District of Florida states that the court will not accept for consideration a complaint under section 1983 unless the appropriate complaint form is completed. Thus, plaintiff must file his complaint on the form for use in section 1983 cases, even if he wants to attach separate pages explaining the facts that underlie the complaint. However, plaintiff should not file a memorandum of law or otherwise provide citations to statutes and cases, and he should not file exhibits as evidentiary support for his complaint. The court will notify plaintiff when memoranda and exhibits are necessary, such as prior to trial or in conjunction with a motion for summary judgment.

To amend his complaint, plaintiff should completely fill out a new civil rights complaint form that has been marked "**Amended Complaint**" with this case number in the appropriate space. Plaintiff is advised that the amended complaint must contain **all** of his allegations, and it should not in any way refer to the original complaint. Once an amended complaint is filed, all earlier complaints are disregarded. Local Rule 15.1, Northern District of Florida.

Plaintiff has not filed an application to proceed *in forma pauperis* or paid the \$350.00 filing fee. He shall either pay the \$350.00 filing fee or file an *in forma pauperis* application on the proper Northern District of Florida court forms. The court will not process the complaint until this is done. Furthermore, plaintiff is advised that if leave to proceed *in forma pauperis* is granted, he may be required to make installment payments towards the filing fee. See *In re Tyler*, 110 F.3d 528 (8th Cir. 1997).

Accordingly, it is ORDERED:

1. The clerk is directed to send plaintiff a section 1983 complaint form and an application to proceed *in forma pauperis*. This case number should be written on both forms, and the words "Amended Complaint" shall be written on the complaint form.
2. Plaintiff shall file an amended complaint using the court form.
3. Plaintiff shall either pay the \$350.00 filing fee or file an application to proceed *in forma pauperis* with supporting documentation as instructed herein.
4. Plaintiff shall do the above within thirty (30) days from the date of the docketing of this order. Failure to do so will result in a recommendation that this case be dismissed for failure to prosecute and to comply with an order of the court.

DONE AND ORDERED this 3rd day of May, 2007.

/s/ *Miles Davis*

MILES DAVIS
UNITED STATES MAGISTRATE JUDGE