

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

DERRICK ALLEN,

Plaintiff,

v.

CASE NO. 4:07-cv-469-RH-GRJ

JAMES R. MCDONOUGH, et al,

Defendants.

_____ /

ORDER

The Court granted summary judgment in favor of Defendants and dismissed the complaint with prejudice. Docs. 132, 133, 135. Plaintiff appealed and was granted leave to proceed as a pauper. Doc. 142. The district judge referred the matter to the undersigned to enter an order under 28 U.S.C. § 1915 setting an initial filing fee, if appropriate, and periodic payments. On November 28, 2011, the Court ordered Plaintiff to pay an initial partial filing fee of \$0.95 (ninety-five cents). This case is now before the Court on Doc. 145, Plaintiff's motion for reconsideration of the order directing him to pay an initial partial filing fee, and Doc. 146, Plaintiff's second motion for leave to proceed as a pauper.

Plaintiff's motion for reconsideration is supported by his prisoner consent and financial certificate, including a copy of his prison account statement for the six months preceding the filing of the appeal. See Doc. 145. Plaintiff's account statement reflects that he does not have sufficient funds to pay an initial partial filing fee. Accordingly, it is

ORDERED AND ADJUDGED:

Plaintiff's motion for reconsideration, Doc. 145, is **GRANTED**. Plaintiff does not

have sufficient funds to pay an initial partial filing fee, however the full \$455.00 filing fee is assessed pursuant to 28 U.S.C § 1915(b)(2). As funds become available in Plaintiff's prison account, he shall be required to make monthly payments of twenty percent of the preceding month's income (that is, all funds deposited into the account) credited to the account.

Upon receipt of this Order, the agency having custody of Plaintiff shall forward payments from Plaintiff's account on a monthly basis to the Clerk of Court each time the amount in the account exceeds \$10.00. A check from a penal institution, a cashier's check, or a money order should be made payable to "Clerk, U.S. District Court." The following information shall either be included on the face of the payment or attached thereto: (1) the full name of the prisoner; (2) the prisoner's inmate number (M26909) and, (3) USCA Appeal Number 11-14877-E, Northern District of Florida Case Number 4:07-cv-469-RH-GRJ. Checks or money orders which do not have this information will be subject to return. These payments shall continue until the filing fee of \$455.00 is paid in full. The **Clerk** shall serve this Order upon the parties and upon the Custodian of Inmate Accounts, Northwest Florida Reception Center, 4455 Sam Mitchell Drive, Chipley, FL 32428-3501.

Plaintiff is warned that he is ultimately responsible for payment of the filing fee if the agency having custody over him lapses in its duty to make payments on his behalf. Thus, in case of transfer, Plaintiff should ensure that any new institution is advised of Plaintiff's payment obligations. Plaintiff should retain a copy of this Order for that purpose.

Because Plaintiff has been granted leave to proceed as a pauper, his second motion for IFP status, Doc. 146, is **MOOT**.

DONE AND ORDERED this 22nd day of December 2011.

s/ Gary R. Jones

GARY R. JONES
United States Magistrate Judge