

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
ALBANY DIVISION

MELVIN L. COX, JR.,	:	
	:	
Plaintiff	:	
	:	
VS.	:	
	:	
FATHY SADD; MEDICAL	:	CIVIL ACTION NO.: 1:06-CV-35 (WLS)
COLLEGE OF GEORGIA,	:	
	:	
Defendants	:	PROCEEDINGS UNDER 42 U.S.C. § 1983
	:	<u>BEFORE THE U.S. MAGISTRATE JUDGE</u>
	:	
	<u>ORDER</u>	

Plaintiff **MELVIN L. COX, JR.** an inmate at Autry State Prison in Pelham, Georgia, has filed an Objection to the Court's March 21, 2006 Order. In the March 21, 2006 Order, the Court found that plaintiff's trust fund account statement revealed that he deposited \$395.00 into his account for the past six months. Therefore, his average monthly deposits to the account were \$65.83 and plaintiff was ordered to pay twenty percent (20%) of the \$65.83, or \$13.17 as an initial partial filing fee.

Plaintiff has mailed an updated statement of account that shows he actually deposited \$305.00 into his account during the past six months. Therefore, his average monthly deposits were \$50.83 and twenty percent (20%) of this figure is \$10.17. After review of the updated statement of account, the Court finds that plaintiff should pay \$10.17 as an initial partial filing fee.

Plaintiff states that "after researching the 28 U.S.C. § 1915(b)4 Law I found out that I should never be barred from filing or service of a law suite (sic) on the grounds that I cannot pay even a partial filing fee." However, plaintiff is overlooking 28 U.S.C. § 1915(b)(1), which provides as follows:

The court shall assess and, when funds exist, collect, as a partial payment of any court fees required by law, an initial partial filing fee of 20 percent of the greater of--

- (A) the average monthly deposits to the prisoner's account; or
- (B) the average monthly balance in the prisoner's account for the 6-month period immediately preceding the filing of the complaint or notice of appeal.

Plaintiff's statement of account shows that he has existing funds and he is ordered to pay **\$10.17** as an initial partial filing fee.

Plaintiff shall have until **May 12, 2006** to pay the required initial partial filing fee to the Clerk of the Court. Failure to comply with this Order shall result in the dismissal of plaintiff's complaint. There shall be no service in this case until further order of the Court.

SO ORDERED, this 12th day of APRIL, 2006.

/s/ *Richard L. Hodge*

RICHARD L. HODGE
UNITED STATES MAGISTRATE JUDGE

Inb