

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

<p>MARCUS ROSSER,</p> <p style="padding-left: 100px;">Plaintiff</p> <p style="text-align:center">VS.</p> <p>Warden CYNTHIA NELSON; Sgt. MCGEE; BENJIE NOBLES,</p> <p style="padding-left: 100px;">Defendants</p> <hr style="width:40%; margin-left:0;"/>	<p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p>	<p>CIVIL ACTION NO.: 1:06-CV-113 (WLS)</p> <p>PROCEEDINGS UNDER 42 U.S.C. § 1983 <u>BEFORE THE U.S. MAGISTRATE JUDGE</u></p> <p><u>ORDER</u></p>
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Plaintiff **MARCUS ROSSER**, an inmate at Autry State Prison in Pelham, Georgia, has filed a *pro se* civil rights complaint under 42 U.S.C. § 1983. He also seeks leave to proceed without prepayment of the filing fee or security therefor pursuant to 28 U.S.C. § 1915(a). As it appears that plaintiff is unable to pay the cost of commencing this action, plaintiff's application to proceed *in forma pauperis* is hereby **GRANTED**.

However, even if a prisoner is allowed to proceed *in forma pauperis*, he must nevertheless pay the full amount of the \$350.00 filing fee in installments based on funds in the prisoner's account. When a prisoner has funds in his account, he must pay an initial partial filing fee of twenty percent of the greater of (1) the average monthly deposits to the prisoner's account, or (2) the average monthly balance in the prisoner's account for the six month period immediately preceding the filing of the complaint. 28 U.S.C. § 1915(b)(1).

A review of plaintiff's trust fund account statement reveals that he deposited \$315.00 into his account in the past six months; thus, the average monthly deposits to his account are \$52.50. Twenty percent (20%) of \$52.50 is \$10.50. Accordingly, it is hereby **ORDERED** that plaintiff pay an initial partial filing fee of \$10.50.

Plaintiff shall have until September 14, 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 14th day of August, 2006.

/s/ Richard L. Hodge

RICHARD L. HODGE
UNITED STATES MAGISTRATE JUDGE

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