

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

<p><b>RICHARD B. KELLY, #B-76238,</b></p> <p style="text-align: center;"><b>Plaintiff,</b></p> <p><b>vs.</b></p> <p><b>JACOB D. NULL, et al.</b></p> <p style="text-align: center;"><b>Defendants.</b></p>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p><b>CIVIL NO. 07-339-GPM</b></p> <p><b>Consolidated with CIVIL NO. 08-322-GPM</b></p> <p><b>APPEAL NO. 09-3846</b></p>
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**MEMORANDUM AND ORDER**

**MURPHY, District Judge:**

This matter is before the Court on Plaintiff’s motion for leave to proceed *in forma pauperis* on appeal (Doc. 101). The Court finds that Plaintiff is indigent. Furthermore, the Court is unable to certify that this appeal is not taken in good faith. *See* 28 U.S.C. § 1915 (a)(3). Therefore, the instant motion is **GRANTED**.

**IT IS HEREBY ORDERED** that Plaintiff shall pay the appellate filing fee of **\$455.00** as follows:

1. Plaintiff has been without funds for six months, he is currently without funds, and he appears to have no means currently with which to pay an initial partial filing fee. Accordingly, the Court will not assess an initial partial filing fee. *See* 28 U.S.C. § 1915(b)(4).
2. Plaintiff shall make monthly payments of 20% of the preceding month’s income credited to Plaintiff’s prison trust fund account until the filing fee is paid in full.
3. The agency having custody of Plaintiff shall forward payments from Plaintiff’s account to the Clerk of this Court each time the amount in the account exceeds \$10.00 until the filing fee is paid in full. Payments shall be mailed to: Clerk of the Court, United States District Court for the Southern District of Illinois, P.O. Box 249, East St. Louis, Illinois 62202.

Plaintiff is **ADVISED** that he is responsible for ensuring payment of the filing fees directed by this Order, and he should ensure that the agency having custody of him transmits the necessary funds. **Plaintiff is FURTHER ADVISED that nonpayment for any reason other than destitution shall be construed as a voluntary relinquishment of the right to file future suits *in forma pauperis*. *Thurman v. Gramley*, 97 F.3d 185, 187 (7<sup>th</sup> Cir. 1996).**

Plaintiff is **FURTHER ADVISED** that the obligation to ensure full payment of the filing fees imposed by this Order shall not be relieved by his transfer to another prison. Plaintiff is under a continuing obligation to keep the Clerk of this Court informed of any change in his whereabouts. This shall be done in writing and not later than seven (7) days after a transfer or other change in address occurs.

The Clerk of Court is **DIRECTED** to mail a copy of this Memorandum and Order to Plaintiff and to the **Trust Fund Officer at Tamms Correctional Center upon entry of this Order.**

**IT IS SO ORDERED.**

DATED: 02/01/2010

*s/ G. Patrick Murphy*  
G. PATRICK MURPHY  
United States District Judge