

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

**JOSEPH L. BROWN,**

**Plaintiff,**

**v.**

**ZACK ROECKEMAN, et al.,**

**Defendants.**

**No. 10-0179-DRH**

**MEMORANDUM and ORDER**

**HERNDON, Chief Judge:**

Now before the Court is Plaintiff's second motion to proceed in the district court without paying fees or costs (Doc. 27). Just last month, however, the Court granted Brown leave to proceed in forma pauperis and directed Brown to make monthly payments of 20% the preceding month's income (Doc. 14). Even though not specifically stated in the motion, the Court construes the motion as one to proceed without paying any fees as Brown only has \$50.82 in his account. Based on the following, the Court denies the motion.

Under 28 U.S.C. § 1915, when a prisoner files a complaint or an appeal in a civil lawsuit, a court is *required* to assess and, when funds exist, to collect, as a partial payment of any court fees required by law, 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 or notice of

appeal. **See 28 U.S.C. § 1915(b)(1); Robbins, 104 F.3d at 897.** After payment of the initial partial filing fee, a prisoner is required to make monthly payments of twenty percent of the preceding month's income credited to the prisoner's account. **See 28 U.S.C. § 1915(b)(2); Lucien v. DeTella, 141 F.3d 773, 776 (7th Cir. 1998).** The agency having custody of a prisoner must forward payments from the prisoner's account to the clerk of the court each time the amount in the prisoner's account exceeds ten dollars until the filing fees are paid. **See 28 U.S.C. § 1915(b)(2); Hall v. Stone, 170 F.3d 706, 707-08 (7th Cir. 1999).** Basically, granting a prisoner's request to proceed in forma pauperis means that the inmate must pay the full filing fee, but may benefit from procedures whereby he will be permitted to pay the fee in installments from his prison trust account. **28 U.S.C. § 1915(b).** Clearly, Brown cannot be excused from the statutory requirement of an paying the full filing fee. Thus, the Court **DENIS** the motion to proceed in the district court without paying fees or costs (Doc. 27).

**IT IS SO ORDERED.**

Signed this 29th day of October, 2010.

  
 David R. Herndon  
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**Chief Judge  
United States District Court**