

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

WILLIAM OWEN SPIVEY II,	)	
IDOC # K81482,	)	
	)	
Plaintiff,	)	
	)	CIVIL NO. 12-134-JPG
vs.	)	
	)	
C. PHELPS, et al.,	)	
	)	
Defendants.	)	

**MEMORANDUM AND ORDER**

**GILBERT, District Judge:**

This action came before the Court on Plaintiff’s motion to proceed *in forma pauperis* (Doc. 3). On March 29, 2012, Plaintiff was ordered to pay the \$350.00 filing fee in this case not later than April 19, 2012 (Doc. 17). This date has since passed and Plaintiff has not tendered the filing fee in full to this Court. As a result, **IT IS HEREBY ORDERED AND ADJUDGED** that this action is **DISMISSED** without prejudice for failure to comply with an order of this Court.. **Fed.R.Civ.P.** 41(b); *see generally* *Ladien v. Astrachan*, 128 F.3d 1051 (7<sup>th</sup> Cir. 1997); *Johnson v. Kamminga*, 34 F.3d 466 (7<sup>th</sup> Cir. 1994). Plaintiff’s obligation to pay the filing fee for this action was incurred at the time the action was filed, thus the filing fee of \$350 remains due and payable. *See* 28 U.S.C. § 1915(b)(1); *Lucien v. Jockisch*, 133 F.3d 464, 467 (7<sup>th</sup> Cir. 1998). All pending motions are **DENIED as moot**. The Clerk is **DIRECTED** to close this case.

**IT IS SO ORDERED.**

**DATED: April 25, 2012**

*s/J. Phil Gilbert*  
\_\_\_\_\_  
**United States District Judge**