

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

CHARLES DONELSON,)	
)	
Plaintiffs,)	
)	
vs.)	Case No. 3:14 CV 1311 SMY/RJD
)	
MICHAEL ATCHISON, et al.,)	
)	
Defendants.)	

MEMORANDUM AND ORDER

DALY, Magistrate Judge:

This matter comes before the Court on Plaintiff’s Motion for Contempt. (Doc. 275.) Plaintiff moves the Court to hold the Department of Corrections officials in contempt for failure to comply with the order allowing Plaintiff to proceed in forma pauperis. (Doc. 275.) Although Plaintiff expresses his concern regarding payments for federal cases assigned to other districts and other judges within this district, this Order will only address Plaintiff’s cases before the undersigned: *Donelson v. Atchison*, 14-cv-1311-SMY-RJD, and *Donelson v. Shearing*, 15-cv-95-SMY-RJD.

On May 4, 2015, the Court issued an order in this action as follows:

Based on a review of Plaintiff’s updated trust fund account information, Plaintiff is assessed an initial partial filing fee of \$15.80. The agency having custody of Plaintiff is directed to forward the initial partial filing fee from Plaintiff’s account to the Clerk of Court upon receipt of this Order. Plaintiff shall make monthly payments of 20% of the preceding month’s income credited to Plaintiff’s prison trust fund account (including all deposits to the inmate account from any source) until the \$350.00 filing fee is paid in full. 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 until the \$350.00 filing fee is paid. In addition, Plaintiff shall note that the filing fees for multiple cases cumulate. A prisoner who files one suit must remit 20% of his monthly income to the Clerk of the Court until his fees have been paid; a prisoner who files a second suit or an

appeal must remit 40%; and so on. Five suits or appeals mean that the prisoner's entire monthly income must be turned over to the court until the fees have been paid. 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.

(Doc. 64.) The Court also entered a nearly identical order in *Donelson v. Shearing*.

Based on review of Plaintiff's motion, it appears that Plaintiff takes issue with the payments being drawn from monetary gifts from his family members rather than state pay.¹ However, the order expressly allows payments to be drawn from "all deposits to the inmate account from any source," and the Seventh Circuit has indicated that this portion of the order is appropriate. *Lucien v. DeTella*, 141 F.3d 773, 776 (7th Cir. 1998). It further appears that Plaintiff may be under the impression that his filing fees have been fully paid. However, court records indicate that, although Plaintiff has paid the initial partial filing fees, Plaintiff still owes a total of \$619.51 for the filing fees in the two actions.

Plaintiff may also be taking issue with the timing of the payments made by the Department of Corrections officials. Specifically, Plaintiff may be arguing that the official failed to comply with the order by failing to remit payments to the Court on previous occasions when Plaintiff had funds available. The documentation submitted by Plaintiff offers some evidentiary support for this. For example, on October 25, 2016, Plaintiff received a \$1000.00 deposit from Cook County, but it does not appear that the Court received a larger payment on behalf of Plaintiff as a result of this deposit. (Doc. 275 at 19-21.)

Significantly, the Seventh Circuit has stated that the onus of monitoring payments rests with the inmate. *Lucien*, 141 F.3d at 776 ("If in a given month the prison fails to make the required distribution from the trust account, the prisoner should notice this and refrain from spending the funds on personal items until they can be applied properly."). However, the

¹ Plaintiff's documentation does not reflect any income received on a regular basis from the state of Illinois, and Plaintiff does not further elaborate on the term, "state pay."

Seventh Circuit has also suggested that “the prison itself may be liable if it fails to comply with a judicial order under the PLRA.” *Id.* At this time, the Court lacks sufficient evidence to find the Department of Corrections in contempt or that it should be liable for Plaintiff’s filing fees. Plaintiff may have a legitimate complaint as sporadic compliance with the filing fee orders would frustrate any attempts by Plaintiff to plan his finances, and the Court is unable to discern the Department of Corrections’ methodology from Plaintiff’s exhibits. The Court also recognizes that the Department of Corrections officials may well have valid reasons for not issuing more substantial payments to this Court on Plaintiff’s behalf.

Accordingly, the Court hereby orders the Department of Corrections to submit, by August 18, 2017, an explanation of the payments made on Plaintiff’s behalf for the filing fees in *Donelson v. Atchison*, 14-cv-1311-SMY-RJD, and *Donelson v. Shearing*, 15-cv-95-SMY-RJD. The Department of Corrections must specifically address Plaintiff’s complaint that it failed to remit payments to the Court on previous occasions when Plaintiff had funds available. The Clerk of Court is directed to send a copy of this Order to the Trust Fund Officer at Stateville Correctional Center.

SO ORDERED.

DATED: July 18, 2017

s/ Reona J. Daly

UNITED STATES MAGISTRATE JUDGE