

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

**STEVIE JACKSON,
B63752,**

Plaintiff,

Case No. 17-cv-420-DRH

vs.

DONALD STOLWORTHY, et al.,

Defendants.

MEMORANDUM AND ORDER

HERNDON, District Judge:

This matter is before the Court on Plaintiff's Motion for Extension of Time to Pay the Filing Fee. (Doc. 16). Plaintiff's Complaint was filed on April 24, 2017. (Doc. 1). Plaintiff subsequently filed motions wherein he alleged that he authorized the Trust Fund Account Officer to submit the \$400.00 filing fee in April 2017, but the check had been lost in the mail. (*See* Docs. 5, 6, 9, 10). Plaintiff also submitted documentation supporting this allegation.¹

¹ One document indicated that \$400.00 was withdrawn from Plaintiff's account in relation to filing a lawsuit in the Southern District of Illinois – Check No. 149399. (Doc. 6, pp. 2-3). Additionally, one of the attached records included a written note, apparently from the Trust Fund Account Officer, stating “As you can see – the trust officer received your voucher on 4/13/17 and the check was processed the same day.” (Doc. 6, p. 2). Another record indicated that the check was mailed to the United States District Court for the Southern District of Illinois in Benton. (Doc. 6, p. 3).

On May 30, 2017, the Court allowed Plaintiff an extension to resolve the matter. (Doc. 7). After Plaintiff was unable to resolve the matter on his own, the Court sought clarification from Menard's Trust Fund Account Officer. (Doc. 12). The Officer responded indicating that the check indeed had been issued and apparently lost in the mail. (Doc. 15). The Officer further indicated that Menard would work with Plaintiff to issue a stop-payment on the missing check and issue a new check. *Id.* After reviewing this information, the Court directed Plaintiff to pay his filing fee on or before July 24, 2017. (Doc. 14).

On July 25, 2017, Plaintiff filed a Motion for Extension of Time, indicating that he continues to encounter difficulties with the Trust Fund Account Office at Menard. Plaintiff also asks the Court to compel Menard to provide him with the name of the Trust Fund Account Officer and to provide him with an updated trust fund account balance report.

At this point it is unclear whether responsibility for Plaintiff's filing fee difficulties rests with Plaintiff, Menard's Trust Fund Account Office, or is simply the result of bad luck. A review of the Court's online PACER database establishes that Plaintiff is a frequent and possibly abusive² litigator in the federal courts, having filed several dozen lawsuits in the Northern and Central Districts of Illinois. Thus, Plaintiff is a veteran litigator and may be attempting to game the system. On the other hand, the Seventh Circuit has observed that there is an inherent conflict of interest in the prison lawsuit system" "[T]he law requires the

² At least one of Plaintiff's prior suits has been dismissed as frivolous or for failure to state a claim. *Jackson v. Dart et al.*, No. 1:13-cv-07007 (N.D. Ill., Doc. 5).

payor (the prison) to process a drawer's request for payment to permit the drawer to sue the payor...[and] it is entirely predictable that the prison will prefer to postpone [a plaintiff's] ability to pursue litigation against itself." *Sultan v. Fenoglio*, 775 F.3d 888, 890 (7th Cir. 2015). The fact that Plaintiff is a frequent litigator suggests that the potential conflict of interest in the instant case is particularly strong. Additionally, the record indicates that the initial loss of Plaintiff's check was not Plaintiff's fault (Doc. 15; Doc. 6, pp. 2-3) and that Plaintiff has attempted, unsuccessfully, to have a new check issued (Doc. 16).

As the Court has previously explained (Doc. 12), a district has a duty, under certain circumstances, to conduct the inquiry necessary to determine that failure to pay a filing fee is attributable to the prisoner's negligence or misconduct rather than circumstances beyond his control. *See Thomas v. Butts*, 745 F.3d 309, 313 (7th Cir. 2014); *Sultan v. Fenoglio*, 775 F.3d 888, 890 (7th Cir. 2015). The circumstances of the instant case require further inquiry into this matter.

Accordingly, the Court **ORDERS Menard's Trust Fund Account Officer** to provide the Court with an update pertaining to Plaintiff's lost check and to advise the Court as to why the Trust Fund Account Office has been unable to reissue a check. **The Trust Fund Account Officer shall provide the Court with the above information on or before August 4, 2017.** Failure to comply will result in the Court setting a show cause hearing with the Trust Fund Account Officer required to appear personally in Court.

Plaintiff's deadline with regard to paying the filing fee is hereby extended to a date to be determined by the Court.

Plaintiff's additional requests to compel are denied without prejudice at this time. *See Lewis v. Casey*, 518 U.S. 343, 362 (1996) (citing *Bell v. Wolfish*, 441 U.S. 520, 562 (1979) (admonishing district courts to avoid interfering "in the minutiae of prison operations").

The Clerk of the Court is **DIRECTED** to terminate Plaintiff's Motion (Doc. 16).

The Clerk of the Court is **DIRECTED** to mail a copy of this Memorandum and Order to Plaintiff and to the Trust Fund Officer at Menard.

IT IS SO ORDERED.

DATED: July 26, 2017

David R. Herndon



Digitally signed by
Judge David R. Herndon
Date: 2017.07.26
13:24:26 -05'00'

United States District Judge