

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

MICHAEL F. DISCH, #03398-424)	
)	
Plaintiff,)	
)	
vs.)	Case No. 17-cv-718-JPG
)	
WARDEN TRUE,)	
)	
Defendant.)	

MEMORANDUM AND ORDER

GILBERT, District Judge:

On July 10, 2017, Plaintiff Michael Disch filed a Motion for Emergency Preliminary Injunctive Relief (“Motion”) (Doc. 1) not associated with any previous action in this Court. This Motion was denied on July 12, 2017. (Doc. 3). Because Plaintiff had not yet properly initiated a civil rights action by filing a complaint, Plaintiff was ordered to file a complaint on or before August 9, 2017 in order to initiate the action. *Id.* Plaintiff was also ordered to pay his filing fee or file a motion for leave to proceed *in forma pauperis* by the same deadline. *Id.* Plaintiff was warned that failure to complete either of those actions would result in dismissal of the case for failure to comply with a court order and/or failure to prosecute the action. *See* FED. R. CIV. P. 41(a). That deadline has now passed. Plaintiff has not filed a complaint. Plaintiff has also not paid his filing fee or filed a motion for leave to proceed *in forma pauperis*. He also has failed to request an extension of the deadline for doing either.

As a result, this case is **DISMISSED** without prejudice, without leave to amend, for failure to comply with an order of this Court and failure to prosecute. FED. R. CIV. P. 41(b); *see*

generally *Ladien v. Astrachan*, 128 F.3d 1051 (7th Cir. 1997); *Johnson v. Kamminga*, 34 F.3d 466 (7th 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 \$400.00 remains due and payable. *See* 28 U.S.C. § 1915(b)(1); *Lucien v. Jockisch*, 133 F.3d 464, 467 (7th Cir. 1998).

If Plaintiff wishes to appeal this Order, he may file a notice of appeal with this Court within thirty days of the entry of judgment. FED. R. APP. 4(A)(4). If Plaintiff does choose to appeal, he will be liable for the \$505.00 appellate filing fee irrespective of the outcome of the appeal. *See* FED. R. APP. 3(e); 28 U.S.C. § 1915(e)(2); *Ammons v. Gerlinger*, 547 F.3d 724, 725-26 (7th Cir. 2008); *Sloan v. Lesza*, 181 F.3d 857, 858-59 (7th Cir. 1999); *Lucien v. Jockish*, 133 F.3d 464, 467 (7th Cir. 1998). Moreover, if the appeal is found to be nonmeritorious, Plaintiff may also incur a "strike" pursuant to 28 U.S.C. § 1915(g). A proper and timely motion filed pursuant to Federal Rule of Civil Procedure 59(e) may toll the 30-day appeal deadline. FED. R. APP. P. 4(a)(4). A Rule 59(e) motion must be filed no more than twenty-eight (28) days after the entry of the judgment, and this 28-day deadline cannot be extended.

The Clerk's Office is **DIRECTED** to close this case and enter judgment accordingly.

IT IS SO ORDERED.

DATED: August 16, 2017

s/J. Phil Gilbert
J. PHIL GILBERT
United States District Judge