

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

**JOE PRICE,  
#A-81574,**

**Plaintiff,**

**vs.**

**Case No. 18-cv-1050-DRH**

**PINCKNEYVILLE RN MEDICAL STAFF, and  
MRS. BROWN,**

**Defendants.**

**MEMORANDUM AND ORDER**

**HERNDON, District Judge:**

Plaintiff, Joe Price, filed this action in the United States District Court for the Central District of Illinois pursuant to 42 U.S.C. § 1983 alleging he is currently being denied medical care at Pinckneyville Correctional Center (“Pinckneyville”). The action was transferred here on May 2, 2018. (Doc. 3). The same day, the Clerk sent Plaintiff a letter directing him to pay the \$400 filing fee *or* submit a properly supported motion for leave to proceed *in forma pauperis* (“IFP Motion”). (Doc. 4). Shortly thereafter, Plaintiff submitted a prisoner trust fund account statement (Doc. 6) *and* a \$200 filing fee. On June 1, 2018, the Court told Plaintiff to either pay the remaining \$200 *or* file an IFP Motion. (Doc. 7).

This matter is now before the Court on Plaintiff’s most recently filed motions: (1) Motion to Voluntarily Dismiss and (2) Motion to Appoint Counsel and Pay Remaining \$200 Balance in Payments (Docs. 9, 8). According to the motions, on May 2, 2018, the Court ordered Plaintiff to file the full \$400 filing fee.

Accordingly, Plaintiff submitted all that he could afford (\$200). Plaintiff now seeks to voluntarily dismiss the case because he cannot afford to pay the full filing fee. Plaintiff simultaneously asks, however, to be permitted to proceed by paying the fee in installments. The pleadings also indicate that Plaintiff is continuing to experience difficulties at Pinckneyville with respect to mental health and medical care.

Seeking voluntary dismissal of the action at this early stage is Plaintiff's right. *See* FED. R. CIV. P. 41(a)(1)(A)(i). However, it is not entirely clear from the pleadings that Plaintiff wants to dismiss this action. It is also evident that Plaintiff is confused about his filing fee obligations and about proceeding *in forma pauperis* (as a poor person). Accordingly, the Court will refrain, for the time being, from resolving Plaintiff's motions. Instead, the Court advises Plaintiff as follows:

- If you cannot afford to pay the filing fee and you want to proceed with this case, you can file a motion to proceed without prepaying fees or costs. This is an IFP Motion.
- If you qualify, you will not be required to pay the filing fee in advance. Instead, you will pay the filing fee in installments.
- You have not yet filed an IFP Motion.
- The Court will send you a form IFP Motion. If you want to proceed with this case, by paying the filing fee in installments, complete the form and return it to the Court within 21 days. After receiving the IFP Motion, the Court will

assess whether you qualify and make calculations regarding your payment plan. You need to understand that if you file the motion to proceed IFP that you must also file or have the prison send in a copy of the account which shows your money in the account and the deposits and withdrawals from the account for a six month period of time prior to filing the motion.

- If you do not respond by the deadline, the Court will address your pending motions and dismiss this case.

The Court **DIRECTS** the Clerk to mail Plaintiff a Motion and Affidavit to Proceed in District Court Without Prepaying Fees or Costs (this is the IFP Motion you must fill out and return to the Court if you want to proceed with this case by paying your filing fee in installments).

**IT IS SO ORDERED.**

*David Herndon*



Judge Herndon

2018.06.14 10:51:35

-05'00'

**United States District Judge**