

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION

KERWIN M. WARD,)	
)	
Plaintiff,)	
)	
v.)	CAUSE NO. 1:10cv0429 RBC
)	
JOSHUA FRANCISCY,)	
)	
Defendant.)	

OPINION AND ORDER

This matter is before the court *sua sponte* on Plaintiff Kerwin Ward’s current *in forma pauperis* status. When the Plaintiff filed this action, he was a prisoner confined at the Westville Correctional Facility. For purposes of the Prison Litigation Reform Act, the court must determine the Plaintiff’s status on the date the suit or appeal is brought. *Abdul-Wadood v. Nathan*, 91 F.3d 1023 (7th Cir. 1996). Ward was a prisoner when he submitted his complaint and request to proceed *in forma pauperis*.

The Court granted Ward leave to proceed without full prepayment of fees and costs. Granting a prisoner’s request to proceed *in forma pauperis* means that the inmate must pay the full filing fee, but may benefit from procedures whereby he will be permitted to pay the fee in installments from his prison trust account. 28 U.S.C. § 1915(b). The Court imposed an initial partial filing fee of \$13.76, which Ward paid on February 24, 2011. He made one additional payment toward the filing fee on April 13, 2011, and still owes \$323.64.

Ward has advised the Court that he has been released from custody, and is no longer confined in any jail or penal facility. When a prisoner is released from custody, the court must reconsider his pauper status and determine his ability to continue to make payments toward the filing fee. *Robbins v. Switzer*, 104 F3d at 898. Where a prisoner has been released from custody he must still pay “the sum that should have been remitted before release. *Robbins v.*

Switzer, 104 F.3d 895, 898 (7th Cir. 1997). Failure to pay the initial partial filing fee, and any installment payments the prisoner should have made before his release will result in the dismissal of this case for failure to prosecute. *Id.* at 898.

For the foregoing reasons, the court AFFORDS the Plaintiff to and including July 11, 2011, within which to pay the remainder of the filing fee (\$323.64), or within which to provide the court with his Indiana Department of Correction prisoner trust account ledger statements for the period between April 14, 2011, and the date of his release, to determine if he owes any installment payments for that period, and to either pay the remainder of the \$350.00 filing fee and advise the court of his current financial situation. The court DIRECTS the clerk to forward the Plaintiff a copy of the court's in forma pauperis petition for non-prisoners along with this order. **The Court CAUTIONS the Plaintiff that failure to respond to this order may result in this case being dismissed without prejudice and without further notice.**

SO ORDERED.

ENTERED: June 7, 2011

s/Roger B. Cosby
Roger Cosby
United States Magistrate Judge