

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION**

KEITH TURNER,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 1:22-cv-00275-TWP-DML
	)	
HAMILTON COUNTY TRUSTEE	)	
ASSOCIATION,	)	
	)	
Defendant.	)	

**ENTRY GRANTING MOTION TO PROCEED *IN FORMA PAUPERIS*,  
DISCUSSING ACTION, AND DIRECTING SERVICE**

This matter is before the Court on Plaintiff's Motion for Leave to Proceed *in Forma Pauperis* ([Filing No. 8](#)) and Refiled Emergency Motion for Preliminary Injunction ([Filing No. 7](#)), and for screening pursuant to 28 U.S.C. § 1915.

**I. Request to Proceed *in Forma Pauperis***

Plaintiff's Motion for Leave to Proceed *in Forma Pauperis* ([Filing No. 8](#)) is **GRANTED** pursuant to 28 U.S.C. § 1915. Plaintiff's affidavit in support of his pauper status is confusing and remains incomplete, however, it appears that he is presently financially unable to pay the filing fee. While *in forma pauperis* status allows a plaintiff to proceed without *pre*-payment of the filing fee, the plaintiff remains liable for the full fees. *See Robbins v. Switzer*, 104 F.3d 895, 898 (7th Cir. 1997) (*in forma pauperis* litigants remain liable for the filing fee; "all [28 U.S.C.] § 1915(a) does for any litigant is excuse the pre-payment of fees"). The Court does not have the authority to waive the filing fee, and it remains due despite Plaintiff's *in forma pauperis* status. *Fiorito v. Samuels*, 2016 U.S. Dist. LEXIS 84869, at \*5 (C.D. Ill. June 30, 2016) ("[c]ourt does not have the authority to waive a filing fee"); *McDaniel v. Meisner*, 2015 U.S. Dist. LEXIS 106067, at \*12

(E.D. Wis. Aug. 12, 2015) (same). The filing fee for *in forma pauperis* litigants is \$350.00. No payment is due currently; however, the \$350.00 balance remains owing.

## II. Screening

District courts have an obligation under 28 U.S.C. § 1915(e)(2)(B) to screen complaints before service on the defendant and must dismiss the complaint if it is frivolous or malicious, fails to state a claim for relief, or seeks monetary relief against a defendant who is immune from such relief. Dismissal under the *in forma pauperis* statute is an exercise of the court's discretion. *Denton v. Hernandez*, 504 U.S. 25, 34 (1992). In determining whether the complaint states a claim, the court applies the same standard as when addressing a motion to dismiss under Federal Rule of Civil Procedure 12(b)(6). *See Lagerstrom v. Kingston*, 463 F.3d 621, 624 (7th Cir. 2006).

To survive dismissal under federal pleading standards,

[the] complaint must contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face. A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.

*Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). Thus, a "plaintiff must do better than putting a few words on paper that, in the hands of an imaginative reader, *might* suggest that something has happened to her that might be redressed by the law." *Swanson v. Citibank, N.A.*, 614 F.3d 400, 403 (7th Cir. 2010) (emphasis in original).

In his Complaint, *pro se* Plaintiff brings a civil action for violation of the Consolidated Appropriations Act, 2021, Division N, Title V, Subtitle A (c)(2)(A) (Pub. L. No. 116–260, 134 Stat. 2072, Dec. 27, 2020). Plaintiff alleges that Defendant Hamilton County Trustee Association wrongfully denied his application for federally funded emergency rental assistance ([Filing No. 1 at 2](#), 5). At this time, the Court has not determined that the action must be dismissed pursuant to § 1915(e) and therefore **shall proceed**. This ruling is without prejudice to the Defendants filing of a

proper Rule 12 motion to dismiss once the Complaint has been served.

### III. Refiled Emergency Motion for Preliminary Injunction

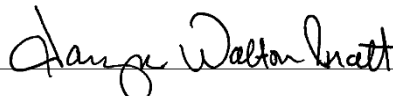
Preliminary relief is not yet available to Plaintiff because "[a]n injunction, like any 'enforcement action,' may be entered only against a litigant, that is, a party that has been served and is under the jurisdiction of the district court." *Maddox v. Wexford Health Sources, Inc.*, 528 Fed. Appx. 669, 672 (7th Cir. 2013) (citing *Lake Shore Asset Mgmt., Ltd. v. Commodity Futures Trading Comm'n*, 511 F.3d 762, 767 (7th Cir. 2007)); see *Audio Enters., Inc. v. B & W Loudspeakers*, 957 F.2d 406, 410 (7th Cir. 1992) (holding that because "[s]ervice of process was never complete," the district court "lacked personal jurisdiction over the defendants" and was therefore "without jurisdiction to enter [a] preliminary injunction"). Plaintiff's Refiled Emergency Motion for Preliminary Injunction ([Filing No. 7](#)) is **denied as premature**. The Defendant must be served. Once this has occurred, Plaintiff may renew his motion.

### IV. Service of Process

Because Plaintiff is proceeding *in forma pauperis*, Federal Rule of Civil Procedure 4(c)(3) requires the Court to order service for Plaintiff. Accordingly, the Clerk is **designated** pursuant to Rule 4(c)(3) to issue process to Defendant Hamilton County Trustee Association in the manner specified by Rule 4(d). Process shall consist of the Complaint ([Filing No. 1](#)), applicable forms (Notice of Lawsuit and Request for Waiver of Service of Summons and Waiver of Service of Summons), and this Entry.

**SO ORDERED.**

Date: 2/24/2022

  
Hon. Tanya Walton Pratt, Chief Judge  
United States District Court  
Southern District of Indiana

Distribution:

Keith Turner  
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