

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
AT LOUISVILLE**

ROBERT JOSEPH ZANI

PLAINTIFF

v.

CIVIL ACTION NO. 3:08-CV-P333-S

UNITED STATES MARSHAL SERVICE et al.

DEFENDANTS

MEMORANDUM OPINION

Robert Joseph Zani, *pro se*, filed a petition invoking 28 U.S.C. § 2241 and an application to proceed without prepayment of fees. This Court found that his petition must be construed as a civil-rights complaint and denied his application to proceed without prepayment of fees due to the three-strikes provision in 28 U.S.C. § 1915(g). The Court ordered that Zani pay the \$350 filing fee for this action within 30 days of entry of this Order and that failure to pay the filing fee will result in dismissal of the instant action.

More than 30 days have passed since the Court entered its Order, and Zani has not paid the filing fee. He did submit a written document in response to the Court's Order. The Court does not find that response persuasive. Having failed to pay the \$350 filing fee as ordered by the Court, the Court, by separate Order, will dismiss this action pursuant to Fed. R. Civ. P. 41(b) for failure to comply with a prior Order of this Court and failure to prosecute.

Zani remains obligated to pay the filing fee in full notwithstanding his failure to comply with the prior Order of this Court. *McGore v. Wigglesworth*, 114 F.3d 601, 605 (6th Cir. 1997) ("We conclude that by *filing* the complaint or notice of appeal, the prisoner waives any objection to the fee assessment by the district court.") (emphasis added).

Date: December 10, 2008



**Charles R. Simpson III, Judge
United States District Court**

cc: Zani, *pro se*
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