

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

ROBERT L. BROOKS II et al.

PLAINTIFFS

v.

CIVIL ACTION NO. 3:12-CV-P446-S

OFFICER DANIELS et al.

DEFENDANTS

MEMORANDUM OPINION AND ORDER

This action was initiated by a complaint signed by Plaintiffs Robert L. Brooks II, Joseph Greer, and Michael York. Plaintiff Brooks submitted a completed prisoner application to proceed without prepayment of fees. On September 4, 2012, the Court entered an Order explaining that where there is more than one plaintiff, each plaintiff is responsible for his or her *pro rata* share of the \$350.00 filing fee. Thus, Plaintiffs Brooks, Greer, and York are each responsible for one-third, or \$116.65, of the filing fee. The Court ordered Plaintiffs Greer and York within 30 days to either submit a completed prisoner application to proceed without prepayment of the filing fee or pay his share, \$116.65, of the filing fee. That Order warned that failure to comply would result in the dismissal as a plaintiff in this action and continued responsibility for payment of his *pro rata* share of the filing fee.

Plaintiff York has not complied with the Court's Order. Courts have an inherent power "acting on their own initiative, to clear their calendars of cases that have remained dormant because of the inaction or dilatoriness of the parties seeking relief." *Link v. Wabash R.R. Co.*, 370 U.S. 626, 630 (1962).

IT IS ORDERED that Plaintiff York is **DISMISSED** as a plaintiff in the instant action. *See* FED. R. CIV. P. 41(b) (governing involuntary dismissal). Because Plaintiff York did not submit an application to proceed without prepayment of fees with a prisoner trust account

statement for the six months preceding filing the complaint, the Court is unable to apportion the filing fee pursuant to 28 U.S.C. § 1915(b)(1).

By separate Order, the Court will order the collection of Plaintiff York's *pro rata* share of the filing fee.

Date: October 30, 2012

A handwritten signature in black ink is written over the official seal of the United States District Court. The seal is circular and features an eagle with wings spread, perched on a shield. The text "UNITED STATES DISTRICT COURT" is visible around the perimeter of the seal.

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

cc: Plaintiffs, *pro se*
Defendants

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