

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

R. WAYNE JOHNSON

PLAINTIFF

v.

CIVIL ACTION NO. 3:16CV-P463-CRS

DAVID HALE, JUDGE

DEFENDANT

MEMORANDUM OPINION AND ORDER

Plaintiff R. Wayne Johnson, an inmate currently incarcerated in Texas, filed the instant pro se civil-rights action. By Memorandum and Order entered October 26, 2016 (DN 9), the Court denied Plaintiff's application to proceed without prepayment of fees pursuant to 28 U.S.C. § 1915(g) and directed him to pay the filing fee in full for the instant action within 30 days from entry of the Order. The Court warned Plaintiff that failure to pay the filing fee within the time allowed would result in dismissal of the action and his continued responsibility for payment of the filing fee. Well over 30 days have passed, and Plaintiff has not paid the filing fee. Consequently, the action will be dismissed by separate Order pursuant to Fed. R. Civ. P. 41(b) for failure to comply with a prior Order of the Court and for failure to prosecute.

As the Court previously advised Plaintiff, dismissal of this action does not relieve him of his responsibility to pay the requisite filing fee in this action. *In re Alea*, 286 F.3d 378, 381 (6th Cir. 2002); *McGore v. Wrigglesworth*, 114 F.3d 601, 607 (6th Cir. 1997), overruled on other grounds by *Jones v. Bock*, 549 U.S. 199 (2007). The obligation to pay the filing fee attaches when a prisoner "brings a civil action." *In re Alea*, 286 F.3d at 381. "The subsequent dismissal of the action under § 1915(g) for failure to pay that fee does not negate or nullify the litigant's continuing obligation to pay the fee in full." *Id.*

Accordingly, **the prior Order (DN 9) obligating Plaintiff to pay the \$400.00 filing fee in this action remains in full effect.**

IT IS THEREFORE ORDERED that the **Texas Department of Criminal Justice-Clements Unit shall collect and forward the \$400.00 filing fee from Plaintiff's inmate account to the Clerk for full payment of the filing fee.** The payment shall be sent to the following address: Office of the Clerk, United States District Court, Western District of Kentucky, 106 Gene Snyder U.S. Courthouse, 601 West Broadway, Louisville, KY 40202-2249.

The Clerk of Court is DIRECTED to open an account for the payment of the filing fee.

Date: December 9, 2016

A handwritten signature in black ink, appearing to read 'Charles R. Simpson III', is written over a faint circular seal. The seal contains the text 'United States District Court' and 'Western District of Kentucky' around a central emblem.

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

cc: Plaintiff, pro se
Defendant
Financial Section, USDC, WDKY
Texas Department of Criminal Justice-Clements Unit, Attn: Inmate Accounts (#282756), 9601 Spur 591,
Amarillo, TX 79107

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