

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

**R. WAYNE JOHNSON**

**PLAINTIFF**

**v.**

**CIVIL ACTION NO. 3:16CV-P633-JHM**

**JOHN SPARLING et al.**

**DEFENDANTS**

**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 November 18, 2016 (DN 5), the Court concluded that Plaintiff is prohibited from proceeding in forma pauperis under § 1915(g) and directed him to pay the \$400.00 fee for filing the instant action within 30 days from the entry date of that Order. The Court warned Plaintiff that failure to pay the filing fee in full within the time allowed would result in dismissal of the action and his continued responsibility for payment of the \$400.00 filing fee.

The compliance period has expired, and Plaintiff has failed to pay 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 5) 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: January 20, 2017

  
Joseph H. McKinley, Jr., Chief Judge  
United States District Court

cc: Plaintiff, pro se  
Defendants  
Financial Section, USDC, WDKY  
Texas Department of Criminal Justice-Clements Unit, Attn: Inmate Accounts (#282756), 9601 Spur 591,  
Amarillo, TX 79107  
4414.005