

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
OWENSBORO DIVISION**

LEWIS FRANCIS MOFFETT

PLAINTIFF

v.

CIVIL ACTION NO. 4:14CV-P42-M

STATE POLICE HENDERSON POST et al.

DEFENDANTS

MEMORANDUM OPINION AND ORDER

Plaintiff Lewis Francis Moffett filed a pro se complaint pursuant to 42 U.S.C. § 1983. By Memorandum and Order entered May 7, 2014, this 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 (DN 5). The Court warned Plaintiff that failure to pay the filing fee within the time allowed would result in dismissal of the action.


More than 30 days have passed since the Court entered its Order, and Plaintiff has not paid the filing fee. He did submit a letter (DN 6) in response to the Court's Order. The Court does not find that response persuasive. Plaintiff having failed to pay the \$400 filing fee as ordered by the Court, 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.**

Date: August 4, 2014


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

cc: Plaintiff, pro se
4414.005