

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

CLAUDE COX AKA CANDY LEE

PLAINTIFF

v.

CIVIL ACTION NO. 5:14CV-P158-R

MICHELLE MERKS

DEFENDANT

MEMORANDUM OPINION AND ORDER

By Memorandum and Order entered September 26, 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 requisite \$400.00 fee for filing the instant action within 30 days from entry of the Order (DN 7). The Court advised Plaintiff that failure to pay the filing fee within the time allowed would result in dismissal of the action.

Review of the record in this action reveals that Plaintiff has failed to pay the requisite \$400.00 fee. The Court will, therefore, dismiss the action 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 7) obligating Plaintiff to pay the \$400.00 fee in this action remains in full effect.

IT IS THEREFORE ORDERED that the Kentucky State Penitentiary 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:

cc: Plaintiff, *pro se*
Financial Section, USDC, WDKY
Kentucky State Penitentiary, Inmate Account No. 155616, 266 Water Street, Eddyville, KY 42038
4413.010