

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

SYLVESTER TRACKLING (#117085)

CIVIL ACTION

VERSUS

LT. CORNELL HOWARD

NO. 10-0755-BAJ-CN

RULING

This matter is before the Court on the Order to the plaintiff to pay, within thirty (30) days, the full amount of the Court's filing fee. Rec.doc.no. 7.

On January 26, 2011, pursuant to the "three strikes" provision of 28 U.S.C. § 1915(g), this Court revoked the prior grant of in forma pauperis status to the plaintiff and ordered him to pay, within 30 days, the full amount of the Court's filing fee. Rec.doc.no. 7. The plaintiff was placed on notice that failure to comply with the Court's Order within the time allowed "shall result in the dismissal of the plaintiff's action without further notice from the Court." Id.

In accordance with 28 U.S.C. § 1915, all prisoners granted in forma pauperis status are required to pay the full amount of the Court's filing fee. This statute further provides that, with one exception, an inmate may make the required payment over time in incremental installments. However, such incremental payments are not allowed, and pauper status shall be denied, where the inmate has filed, on at least three prior occasions, actions or appeals which have been dismissed as baseless. Specifically:

In no event shall a prisoner bring a civil action or appeal a judgment in a civil action or proceeding under this section if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of

the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.

28 U.S.C. § 1915(g).

In the instant case, the plaintiff has, on three or more prior occasions while incarcerated, brought actions or appeals which have been dismissed as frivolous or for failure to state a claim.¹ Accordingly, pursuant to Adepegba v. Hammons, 103 F.3d 383 (5th Cir. 1996), this Court entered an Order revoking the prior grant of in forma pauperis status and directing the plaintiff to pay the full amount of the Court's filing fee. A review of the record by the Court now reflects that the plaintiff has failed to comply with the Court's Order in this regard. Accordingly, the plaintiff's action shall be dismissed for failure to pay the Court's filing fee. Therefore,

IT IS ORDERED that the plaintiff's Complaint be dismissed, without prejudice, for failure to pay the Court's filing fee.

Judgment shall be entered accordingly.

Baton Rouge, Louisiana, this 2nd day of March, 2011.



BRIAN A. JACKSON
UNITED STATES DISTRICT JUDGE

¹ Cases filed by the plaintiff which have been dismissed by the federal courts as frivolous or for failure to state a claim upon which relief may be granted include, but are not limited to, Sylvester Trackling v. Major Tillman, Civil Action No. 09-1035-JVP (M.D. La.), Sylvester Trackling v. Shaunry Williams, Civil Action No. 10-0745-RET (M.D. La.), and Sylvester Trackling v. Sgt. Floyd Sims, Civil Action No. 10-0754-FJP (M.D. La.).