

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF LOUISIANA

KINTAD PHILLIPS (# 294348)

CIVIL ACTION

VERSUS

NO. 18-146-SDD-EWD

L.S.P., ET AL.

Consolidated with:

KINTAD PHILLIPS (# 294348)

CIVIL ACTION

VERSUS

NO. 18-366-SDD-EWD

SECRETARY JAMES LeBLANC, ET AL.

**RULING**

This matter comes before the Court in connection with the Court's Orders dated October 19, 2018<sup>1</sup> and May 21, 2019.<sup>2</sup> On October 19, 2018, the Court issued an Order granting the plaintiff authorization to proceed *in forma pauperis* in this case, directing him to pay, within twenty-one (21) days, an initial partial filing fee in the amount of \$2.29, and advising that "this action may be dismissed" should the plaintiff fail to comply with the Court's Order.<sup>3</sup> The plaintiff

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<sup>1</sup> R. Doc. 10.

<sup>2</sup> R. Doc. 13.

<sup>3</sup> R. Doc. 10.

failed to pay the initial partial filing fee as ordered, and on May 21, 2019, the plaintiff was ordered to show cause within twenty-one (21) days, why his Complaint should not be dismissed for failure to pay the initial partial filing fee. The plaintiff was further ordered to attach to his response copies of his inmate account transaction statements showing the daily account activity in his inmate drawing, savings, and reserve accounts for the months of December of 2018 and January and February of 2019, and advised that failure to submit the requested information or a determination by the Court that the plaintiff had sufficient funds to make the required payment but failed to do so would result in dismissal of the plaintiff's action without further notice.<sup>4</sup>

A review of the record reveals that the plaintiff has failed to pay the initial partial filing fee, and though the plaintiff responded to this Court's order, he did not attach the required information.<sup>5</sup> Rather than attaching his inmate account transaction statements showing the daily account activity in his inmate drawing, savings, and reserve accounts, the plaintiff attached a canteen sales log, incentive pay log, and a withdrawal request receipt.<sup>6</sup>

Pursuant to 28 U.S.C. §1915(b)(1), this Court is required to collect an initial partial filing fee calculated pursuant to the formula specified therein. However, it is further specified that in no event shall a prisoner be prohibited from bringing a civil action because the prisoner has no means by which to pay the initial partial filing fee.<sup>7</sup> Accordingly, when the plaintiff failed to pay the initial partial filing fee as ordered, this Court ordered him to show cause why his Complaint should not be dismissed and to provide copies of his inmate account transaction statements so that this

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<sup>4</sup> R. Doc. 13.

<sup>5</sup> R. Doc. 14.

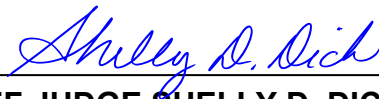
<sup>6</sup> R. Doc. 14.

<sup>7</sup> See 28 U.S.C. 1915(b)(4).

Court could determine if the plaintiff did or did not have the means to pay the fee.<sup>8</sup> The plaintiff has not provided the Court with the documents requested. Accordingly,

**IT IS ORDERED** that the above-captioned proceeding be **DISMISSED, WITHOUT PREJUDICE**, for failure of the plaintiff to pay the Court's initial partial filing fee. Judgment shall be entered accordingly.

Signed in Baton Rouge, Louisiana on June 14, 2019.



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**CHIEF JUDGE SHELLY D. DICK  
UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF LOUISIANA**

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<sup>8</sup> R. Doc. 13.