

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

ENZO RIVERS,)	
)	
Plaintiff,)	
)	
v.)	C.A. No. 12-10529-PBS
)	
SEAN CARTER, et al.,)	
)	
Defendants.)	
)	

ORDER

April 22, 2013

Saris, U.S.D.J.

April 12, 2013, pro se plaintiff Enzo Rivers, who is incarcerated at MCI Norfolk, filed an affidavit in which he asks the Court to inform the prison treasurer that he does not have to pay the filing fee for this action because the Court granted his earlier-filed motion to proceed in forma pauperis.

The Court cannot grant Rivers's request. Under the Prison Litigation Reform Act ("PLRA"), Congress has mandated that prisoner plaintiffs pay the \$350.00 filing fee, notwithstanding the grant of in forma pauperis status. See 28 U.S.C. § 1915(b)(1) ("[I]f a prisoner brings a civil action or files an appeal in forma pauperis, the prisoner shall be required to pay the full amount of a filing fee."). In forma pauperis status simply allows the prisoner to litigate his case without prepaying the fee. In accordance with 28 U.S.C. § 1915(b)(1)-(b), when the Court allowed Rivers's motion for leave to proceed in forma pauperis, it assessed an initial partial filing fee and directed

the appropriate prison official to withdraw the initial partial payment from the plaintiff's account, followed by payments on a monthly basis until the entire \$350.00 filing fee is paid in full.

Rivers reports that the treasurer at MCI Norfolk has frozen his canteen account because of his filing fee obligation, and that he cannot purchase soap, toothpaste, or a toothbrush. Once the initial partial filing fee is paid¹, the PLRA does not require a prisoner to use all of his income to pay the filing fee. However, the treasurer is required to withhold some funds and therefore a prisoner must carefully prioritize his purchases:

After payment of the initial partial filing fee, the prisoner shall be required to make monthly payments of 20 percent of the preceding month's income credited to the prisoner's account. The agency having custody of the prisoner shall forward payments from the prisoner's account to the clerk of the court each time the amount in the account exceeds \$10 until the filing fees are paid.

28 U.S.C. § 1915(b)(2) (emphases added).

Accordingly, the Court denies Rivers's request for an order that he is not required to pay the filing fee. The Clerk shall send a copy of this order to the treasurer of MCI Norfolk.

SO ORDERED.

/s/ Patti B. Saris
PATTI B. SARIS
UNITED STATES DISTRICT JUDGE

¹In its April 2, 2012 order (#7) granting the plaintiff's motion for leave to proceed in forma pauperis, the Court assessed an initial partial filing fee of \$4.35. The Clerk has received \$4.50 towards the filing fee.