

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

EARNEST PARKER,

Plaintiff,

No. 15-11721

v.

District Judge Judith E. Levy
Magistrate Judge R. Steven Whalen

UNITED STATES OF AMERICA,
ET AL.,

Defendants.

**ORDER VACATING SHOW CAUSE ORDER AND
DIRECTING PLAINTIFF TO PAY FILING FEE**

On May 13, 2015, Plaintiff Earnest Parker, a prison inmate in the custody of the Federal Bureau of Prisons (“BOP”), filed a *pro se* civil complaint under the Federal Tort Claims Act. On June 15, 2015, the Court ordered the BOP to deduct the entire filing fee from Plaintiff’s trust account and submit it to the Court [Doc. #5]. Because the Defendants were not timely served, the Court ordered Plaintiff to show cause why his complaint should not be dismissed under Fed.R.Civ.P. 4(m).

In his response to the show cause order, Plaintiff states that at the time the BOP received the order to deduct the filing fee from his prisoner account, that account did not have sufficient funds to cover the fee, and the BOP failed to deduct and send to the Court a partial payment representing 20% of the funds in his account. Nevertheless, he states that he now has the ability to pay the full filing fee of \$400.00.

Therefore, the show cause order of January 13, 2016 [Doc. # 8] is VACATED.

Plaintiff will submit the full filing fee of \$400.00 within 21 days of the date of this Order.

Upon timely receipt of the Plaintiff's filing fee, the Court will enter an order extending the time for service of the summons and complaint on the United States.¹

IT IS SO ORDERED.

s/R. Steven Whalen
R. STEVEN WHALEN
UNITED STATES MAGISTRATE JUDGE

Date: April 18, 2016

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was sent to parties of record on April 18, 2016, electronically and/or by U.S. mail.

s/Carolyn M. Ciesla
Case Manager to the
Honorable R. Steven Whalen

¹ The FTCA waives the United States' sovereign immunity for torts committed by federal employees. *See* 28 U.S.C. § 1346(b)(1). Thus, the United States, not the individual employee, is the proper party in an FTCA case. Service on the United States is governed by Fed.R.Civ.P. 4(i)((1), which requires sending a copy of the summons and complaint, by registered or certified mail, to both (1) the civil process clerk at the United States Attorney's Office for the Eastern District of Michigan, and (2) the Attorney General of the United States at Washington, D.C.