

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
WESTERN DIVISION

BENNIE D. HERRING, #07956-002 PETITIONER  
VERSUS CIVIL ACTION NO. 5:07cv82-DCB-MTP  
CONSTANCE REESE RESPONDENT

ORDER REQUIRING PETITIONER TO PAY THE FILING FEE

This cause comes before this court on petitioner Bennie D. Herring's response [4-1] to the order [3-1] filed April 25, 2007, which ordered him to file a motion to proceed in forma pauperis or pay the \$5.00 filing. In his response [4-1], the petitioner states that he filed an "authorization and account information to pay the filing fee." He further states that he would commit perjury if he "now fill[ed] out the in forma pauperis form."

Having reviewed the "authorization and account information" [2-1] filed April 24, 2007, this court finds that the petitioner has a balance of \$177.30 in his inmate account. Section 28 U.S.C. § 1915(a) provides access to the courts if a petitioner does not have financial resources to pay any part of the statutory filing fee. See Williams v. Estelle, 681 F.2d 946 (5th Cir. 1982); Prows v. Kastner, 842 F.2d 138 (5th Cir. 1988). This court notes that the petitioner is currently incarcerated and does not pay for room, food, clothing or other incidental expenses. Under the circumstances, this court in exercising its discretion has determined that the petitioner has the financial

resources to pay the \$5.00 filing fee. Therefore, petitioner is required to pay the \$5.00 filing fee. It is the petitioner's responsibility to take the necessary steps to have the \$5.00 withdrawn from his inmate account and paid to this court for the filing fee in the instant civil action. Accordingly, it is

ORDERED AND ADJUDGED:

1. That petitioner has 30 days from the entry of this order to submit to this court the \$5.00 filing fee. If the filing fee is paid by the petitioner or someone other than the petitioner, there must be a written explanation that the money is being submitted as payment of the filing fee in this case on behalf of the petitioner, BENNIE D. HERRING, #07956-002.

2. The filing fee must be mailed to the Clerk, Western Division, P.O. Box 23552, Jackson, MS 39225.

3. That if the \$5.00 filing fee is not received, petitioner is hereby warned that this action may be dismissed.

4. That the petitioner is further warned that failure to keep this court informed of his current address may result in this case being dismissed.

SO ORDERED this the 3<sup>rd</sup> day of May, 2007.

s/ David Bramlette  
UNITED STATES DISTRICT JUDGE