

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
NORTHERN DIVISION

STEPHANIE MARIE BUCHANAN,)
)
Plaintiff,)
)
v.) No. 2:15-CV-5-CDP
)
)
HARI KAPUR, et al.,)
)
Defendants.)

MEMORANDUM AND ORDER

This matter is before the Court upon the application of Stephanie Marie Buchanan (registration no. 1221458) for leave to commence this action without payment of the required filing fee. Upon consideration of plaintiff's financial information, the Court will grant the motion and will assess an initial partial filing fee of \$61.06. *See* 28 U.S.C. § 1915(a). In addition, the Court will instruct plaintiff to file an amended complaint¹ and will deny without prejudice her pro se motion for a preliminary injunction [Doc. #4].

¹The Court appointed counsel for plaintiff on March 6, 2015 [Doc. #8]. As such, the Court will allow plaintiff to file an amended complaint, as well as any motions for injunctive relief that counsel deems necessary. In the amended complaint, plaintiff should indicate in what capacity she is suing defendants (i.e., individual capacity, official capacity, or both). Plaintiff is advised that her amended complaint will replace her original complaint and will be the only pleading this Court reviews.

28 U.S.C. § 1915(b)(1)

Pursuant to 28 U.S.C. § 1915(b)(1), a prisoner bringing a civil action in forma pauperis is required to pay the full amount of the filing fee. If the prisoner has insufficient funds in his or her prison account to pay the entire fee, the Court must assess and, when funds exist, collect an initial partial filing fee of 20 percent of the greater of (1) the average monthly deposits in the prisoner's account; or (2) the average monthly balance in the prisoner's account for the prior six-month period.

See 28 U.S.C. § 1915(b)(1). After payment of the initial partial filing fee, the prisoner is required to make monthly payments of 20 percent of the preceding month's income credited to the prisoner's account. *See* 28 U.S.C. § 1915(b)(2).

The agency having custody of the prisoner will forward these monthly payments to the Clerk of Court each time the amount in the prisoner's account exceeds \$10, until the filing fee is fully paid. *Id.*

Plaintiff has submitted an affidavit and a certified copy of her prison account statement for the six-month period immediately preceding the submission of her complaint. *See* 28 U.S.C. § 1915(a)(1),(2). A review of plaintiff's account statement indicates an average monthly deposit of \$305.29, and an average monthly account balance of \$192.08. Plaintiff has insufficient funds to pay the entire filing

fee. Accordingly, the Court will assess an initial partial filing fee of \$61.06, which is 20 percent of plaintiff's average monthly deposit.

In accordance with the foregoing,

IT IS HEREBY ORDERED that plaintiff's motion for leave to proceed in forma pauperis [Doc. #2] is **GRANTED**.

IT IS FURTHER ORDERED that plaintiff shall pay an initial partial filing fee of \$61.06 within thirty (30) days from the date of this Order. Plaintiff is instructed to make her remittance payable to "Clerk, United States District Court," and to include upon it: (1) her name; (2) her prison registration number; (3) the case number; and (4) that the remittance is for an original proceeding.

IT IS FURTHER ORDERED that if plaintiff fails to pay the initial partial filing fee within thirty (30) days, without first showing good cause, the Court will dismiss this action without prejudice.

IT IS FURTHER ORDERED that plaintiff shall file an amended complaint **on or before April 11, 2015**.

IT IS FURTHER ORDERED that plaintiff's pro se motion for a preliminary injunction [Doc. #4] is **DENIED, without prejudice**.

IT IS FURTHER ORDERED that, pursuant to the Court's differentiated case management system, this case is assigned to Track 5B (standard prisoner actions).

Dated this 11th day of March, 2015.


UNITED STATES DISTRICT JUDGE