

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION

DENNIS FRIEDT,

Plaintiff,

vs.

COLLYN SERVER; DONNA
MENDENHALL; JIM SALMONSEN,

Defendants.

Cause No. CV 22-28-H-DLC

ORDER

On April 22, 2022, Plaintiff Friedt moved to proceed in forma pauperis with this action alleging a violation of his Eighth Amendment right to adequate medical care. *See* Compl. (Doc. 2) at 3–5.

On May 19, 2022, the case was transferred from the Billings Division to the Helena Division. *See* Order (Doc. 7). United States Magistrate Judge Kathleen DeSoto found that Friedt stated a claim requiring a response. She granted Friedt's motion to proceed in forma pauperis and issued a collection order. *See* Orders (Docs. 8, 9). She also requested that the Defendants waive service of summonses. *See* Order (Doc. 8).

On May 23, 2002, Friedt moved to dismiss the case and waive the filing fee. Friedt is free to dismiss his case at any time “before the opposing party serves either an answer or a motion for summary judgment.” Fed. R. Civ. P. 41(a)(1)(A)(i). But 28 U.S.C. § 1915(b)(1) provides that, “[I]f a prisoner brings a civil action . . . the prisoner shall be required to pay the full amount of a filing fee.” The Court is not authorized to waive a prisoner’s obligation to pay the fee. *See Bruce v. Samuels*, 577 U.S. 82, 85–86 (2016); *Andrews v. Cervantes*, 493 F.3d 1047, 1051–52 (9th Cir. 2007); *Taylor v. Delatoore*, 281 F.3d 844, 847, 848–50 (9th Cir. 2002).

Because 28 U.S.C. § 1915(b)(1) requires prisoners to pay the filing fee, any appeal of this disposition could not be taken in good faith. *See Fed. R. App. P. 24(a)(3)(A), (4)(B)*.

Accordingly, IT IS ORDERED:

1. Pursuant to Friedt’s motion, this matter is DISMISSED.
2. Friedt’s motion to waive payment of the filing fee (Doc. 10) is DENIED.
3. The clerk shall serve a copy of this Order in the same manner as Judge DeSoto’s service order (Doc. 8).
4. The clerk shall enter, by separate document, a judgment of dismissal.
5. The Court CERTIFIES that any appeal of this disposition would not be

taken in good faith.

DATED this 26th day of May, 2022.



Dana L. Christensen, District Judge
United States District Court