

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

HAROLD BRYAN WILSON, and )  
RILEY NICOLE SHADLE, )

Plaintiffs, )

V. )

JASON GEERDES, FRED )  
BRITTEN, CATHY SHEAIR, and )  
SCOTT FRAKES, )

Defendants. )

8:16CV524

**MEMORANDUM AND ORDER**

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Plaintiff Harold Wilson (“Wilson”), who is incarcerated at the Nebraska State Penitentiary, filed a Complaint on November 30, 2016. Riley Nicole Shadle (“Shadle”), who is incarcerated at the Lincoln Correctional Center, also signed the Complaint. Wilson and Shadle have advised that they both wish to proceed in this action.

Shadle has filed a Motion for Leave to Proceed In Forma Pauperis in this suit (Filing No. [10](#)). The court has received a certified copy of Shadle’s trust account information. (Filing No. [11](#).) Shadle is permitted to proceed IFP.

Prisoner plaintiffs are required to pay the full amount of the court’s \$350.00 filing fee by making monthly payments to the court, even if the prisoner is proceeding IFP. [28 U.S.C. § 1915\(b\)](#). The Prison Litigation Reform Act “makes prisoners responsible for their filing fees the moment the prisoner brings a civil action or files an appeal.” [In re Tyler](#), 110 F.3d 528, 529-30 (8th Cir. 1997); [Jackson v. N.P. Dodge Realty Co.](#), 173 F. Supp. 2d 951 (D. Neb. 2001).

Pursuant to [28 U.S.C. § 1915\(b\)\(1\)](#), Shadle must pay an initial partial filing fee in the amount of 20 percent of the greater of Shadle’s average monthly account

balance or average monthly deposits for the six months preceding the filing of the Complaint. Here, the court finds the initial partial filing fee is \$22.70, based on average monthly deposits of \$113.51. Shadle must pay this initial partial filing fee within 30 days or his case will be subject to dismissal. Shadle may request an extension of time if one is needed.

In addition to the initial partial filing fee, Shadle must “make monthly payments of 20 percent of the preceding month’s income credited to the prisoner’s account.” [28 U.S.C. § 1915\(b\)\(2\)](#). The statute places the burden on the prisoner’s institution to collect the additional monthly payments and forward them to the court as follows:

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\(b\)\(2\)](#). Therefore, after payment in full of the initial partial filing fee, Shadle’s institution must collect the remaining installments of the filing fee and forward the payments to the court.

Shadle is advised he will remain responsible for the entire filing fee, as long as he is a prisoner, even if the case is dismissed at some later time. See [In re Tyler, 110 F.3d at 529-30](#); [Jackson, 173 F. Supp. 2d at 951](#).

IT IS THEREFORE ORDERED that:

1. Shadle’s Motion for Leave to Proceed IFP (Filing No. [10](#)) is granted.
2. Shadle must pay an initial partial filing fee of \$22.70 within 30 days, unless the court extends the time in which he has to pay in response to a written

motion.

3. After payment of the initial partial filing fee, Shadle's institution must collect the additional monthly payments in the manner set forth in [28 U.S.C. § 1915\(b\)\(2\)](#), quoted above, and forward those payments to the court.

4. The clerk's office is directed to send a copy of this order to the appropriate official at Shadle's institution.

5. The clerk's office is directed to set a pro se case management deadline in this case using the following text: **January 28, 2017**: initial partial filing fee payment due.

6. Shadle is advised that, following payment of the initial partial filing fee, the next step in this case will be for the court to conduct an initial review of the claims to determine whether summary dismissal is appropriate under [28 U.S.C. § 1915\(e\)\(2\)](#). The court will conduct this initial review in its normal course of business.

7. Shadle's initial Motion for Leave to Proceed In Forma Pauperis (Filing No. [7](#)) is denied as moot.

DATED this 29<sup>th</sup> day of December, 2016.

BY THE COURT:

*S/ Richard G. Kopf*  
Senior United States District Judge