UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

KEVIN ALMY,

Plaintiff,

v.

JAMES DZURENDA et al.,

Defendants.

3:17-cv-00045-MMD-WGC

ORDER

I. DISCUSSION

On January 24, 2017, Plaintiff filed an application to proceed *in forma pauperis* for prisoners and submitted a civil rights complaint pursuant to 42 U.S.C. § 1983. (ECF No. 1, 1-1). In September 2017, Plaintiff was released from prison. (*See* ECF No. 4). Plaintiff now asserts that he is no longer subject to the filing fee or screening process because he is no longer incarcerated. (*Id.* at 1). Plaintiff seeks to proceed with pre-trial discovery. (*Id.*)

The Court acknowledges that Plaintiff is no longer subject to the screening requirements of 28 U.S.C. § 1915A because Plaintiff is no longer a "prisoner" within the meaning of the statute. *See* 28 U.S.C. § 1915A(a), (c). However, Plaintiff is subject to the screening requirement under 28 U.S.C. § 1915(e)(2)(B)(i)-(iii). Under § 1915(e)(2)(B)(i)-(iii), "the court shall dismiss the case at any time if the court determines that . . . the action or appeal (i) is frivolous or malicious; (ii) fails to state a claim upon which relief may be granted; or (iii) seeks monetary relief against a defendant who is immune from such relief." This provision applies to all actions filed *in forma pauperis*, whether or not the plaintiff is incarcerated. *See Lopez v. Smith*, 203 F.3d 1122, 1129 (9th Cir. 2000); *see also Calhoun v. Stahl*, 254 F.3d 845 (9th Cir. 2001) (per curiam).

As such, even though Plaintiff is no longer incarcerated, the Court must screen Plaintiff's complaint under § 1915(e)(2) because Plaintiff seeks to proceed *in forma pauperis* in this action. Plaintiff may remove himself from the screening process in this case if he pays the $400 filing fee for initiating this civil action.

II. CONCLUSION

For the foregoing reasons, IT IS ORDERED that, if Plaintiff seeks to remove this case from screening, he shall pay the full $400 fee for filing a civil action (which includes the $350 filing fee and the $50 administrative fee).

IT IS FURTHER ORDERED that, if Plaintiff chooses not to pay the $400 filing fee, the Court will screen Plaintiff's civil rights complaint in due course. Due to the Court's caseload, the screening process may take several months.

DATED: This 2nd day of October, 2017.

William G. Cobb
United States Magistrate Judge