

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

<p>JAMES MAURICE KEARSE,</p> <p style="padding-left: 40px;">Petitioner,</p> <p style="text-align: center;">v.</p> <p>RECORDS SUPERVISOR,</p> <p style="padding-left: 40px;">Respondent.</p>	<p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p>	<p>Civ. No. 18-14191 (NLH)</p> <p>OPINION</p>
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APPEARANCE:

James Maurice Kearse, No. 33223-057
 FCI - Fort Dix
 P.O. Box 2000
 Fort Dix, NJ 08640
 Petitioner Pro Se

HILLMAN, District Judge

Petitioner James Maurice Kearse, an inmate presently incarcerated at the Federal Correctional Institution at Fort Dix in Fort Dix, New Jersey, seeks to bring this Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241, without prepayment of the filing fee or the submission of an application to proceed in forma pauperis. See ECF No. 1 (Petition).

Filing Fee

The filing fee for a petition for writ of habeas corpus is \$5.00. Pursuant to Local Civil Rule 54.3(a), the filing fee is required to be paid at the time the petition is presented for filing. Pursuant to Local Civil Rule 81.2(b), whenever a prisoner submits a petition for writ of habeas corpus and seeks

to proceed in forma pauperis, that petitioner must submit (a) an affidavit setting forth information which establishes that the petitioner is unable to pay the fees and costs of the proceedings, and (b) a certification signed by an authorized officer of the institution certifying (1) the amount presently on deposit in the prisoner's prison account and, (2) the greatest amount on deposit in the prisoner's institutional account during the six-month period prior to the date of the certification. If the institutional account of the petitioner exceeds \$200, the petitioner shall not be considered eligible to proceed in forma pauperis. L. Civ. R. 81.2(c).

Here, Petitioner did not prepay the \$5.00 filing fee for a habeas petition as required by Local Civil Rule 54.3(a), nor did Petitioner submit a complete application for leave to proceed in forma pauperis. Petitioner must either submit the filing fee or a complete application to proceed in forma pauperis.

CONCLUSION

For the reasons set forth above, the Clerk of the Court will be ordered to administratively terminate this action, without filing the Petition or assessing a filing fee.¹ Petitioner will

¹ Such an administrative termination is not a "dismissal" for purposes of the statute of limitations, and if the case is re-opened pursuant to the terms of the accompanying Order, it is not subject to the statute of limitations time bar if it was originally submitted timely. See Houston v. Lack, 487 U.S. 266 (1988) (prisoner mailbox rule); Papotto v. Hartford Life & Acc.

be granted leave to apply to re-open within 30 days so long as he complies with the requirement to either pay the filing fee or submit a complete application to proceed in forma pauperis. An appropriate Order follows.

Dated: September 28, 2018
At Camden, New Jersey

s/ Noel L. Hillman
NOEL L. HILLMAN, U.S.D.J.

Ins. Co., 731 F.3d 265, 275-76 (3d Cir. 2013) (collecting cases and explaining that a District Court retains jurisdiction over, and can re-open, administratively closed cases).