

allowed to proceed *in forma pauperis*, he or she will not be assessed the \$55 administrative fee and instead, pay the \$350 filing fee as follows. Pay “an initial partial filing fee of 20 percent of the greater of” the “average monthly deposits to the prisoner’s account;” or the “average monthly balance in the prisoner’s account for the 6-month period immediately preceding the filing of the complaint” § 1915(b)(1)(A)-(B). Thereafter, “make monthly payments of 20 percent of the preceding month’s income credited to the prisoner’s account.” § 1915(b)(2). The “agency having custody of the prisoner” must also “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.” *Id.*

The Court may dismiss the matter however, even after the fee is paid. It may do so if the case is: (1) “frivolous or malicious;” (2) “fails to state a claim upon which relief may be granted;” or (3) “seeks monetary relief against a defendant who is immune from such relief.” § 1915(e)(2)(B). If dismissed, the Plaintiff’s filing fee is not refunded.

Here, the IFP is deficient because Plaintiff failed to provide a full 6-month account statement. (*See* ECF No. 1-1 at 4-5). Though Plaintiff states that he has been incarcerated since October 2023 (*Id.* at 2), the account statement includes information for December 2023 through February 2024 only. Thus, Plaintiff did not submit an account statement for the entire 6-month period immediately preceding the filing of this litigation. If incarcerated at a different facility, like Plaintiff notes in the IFP (*Ibid.*), he must also obtain a certified account statement from a prison official at that facility. Accordingly, it is hereby,

ORDERED that Plaintiff’s request to proceed *in forma pauperis* (ECF No. 1-1) is **DENIED** without prejudice; it is further

ORDERED that the Clerk of the Court shall **ADMINISTRATIVELY TERMINATE** this case, without filing the complaint or assessing a filing fee; Plaintiff is informed that

administrative termination is not a “dismissal” for purposes of the statute of limitations, and that if the case is reopened, it is not subject to the statute of limitations time bar, if originally timely filed timely (*see DaSilva v. Sheriff's Dep't*, 413 F. App'x 498, 502 (3d Cir. 2011) (“[The] statute of limitations is met when a complaint is submitted to the clerk before the statute runs”) (citation and internal quotations omitted)); it is further

ORDERED that the Clerk of the Court shall send Plaintiff a blank application to proceed *in forma pauperis* (DNJ- ProSe-007 – A (Rev. 12/2020)); it is further

ORDERED that if Plaintiff wishes to reopen this case, he shall notify the Court in writing within 30 days of entry of this Order, addressed to the Clerk of the Court, Martin Luther King Building & U.S. Courthouse, 50 Walnut Street, Newark, NJ 07102; Plaintiff's writing shall include either: a (1) 6-month account statement certified by the appropriate prison official; or (2) the \$405 fee, including the \$350 filing fee plus the \$55 administrative fee; it is further

ORDERED that upon receipt of a Plaintiff's writing and either a certified copy of a 6-month account statement or payment of the filing and administrative fees within the specified time, the Clerk of the Court shall reopen this case; and it is

ORDERED that the Clerk of the Court shall serve a copy of this Order upon Plaintiff by regular U.S. mail.

DATED: March 26, 2024

s/ Julien Xavier Neals
JULIEN XAVIER NEALS
United States District Judge