

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:16-cv-00135-FDW

COREY DELON GREENE,)
)
 Plaintiff,)
)
 v.)
)
 JOSEPH ABERNATHY, et al.,)
)
 Defendants.)
 _____)

ORDER

THIS MATTER is before the Court on consideration of Plaintiff’s “Motion to Nullify Co-Payment Fees.” (Doc. No. 10).

On May 10, 2016, Plaintiff, who is a prisoner of the State of North Carolina, filed a complaint pursuant to 42 U.S.C. § 1983, alleging the defendants violated his civil rights. On June 1, 2016, the Clerk entered an order for production of Plaintiff’s prisoner trust account statement in order to determine his ability to pay the filing fee for his complaint. (Doc. No. 5). Plaintiff later filed a motion to dismiss the complaint which the Court construed as a notice of voluntary dismissal based on the fact that no answer or other pleading had been filed by any defendant and he could therefore dismiss his complaint as a matter of right. The case was then closed although Plaintiff’s affidavit to proceed *in forma pauperis* was allowed based on his indigent status. In his motion to discontinue payment of the filing fee, Plaintiff contends it is unfair that he remain responsible for payment of the fees because he voluntarily dismissed the case. (Doc. No. 10).

The Prisoner Litigation Reform Act (PLRA) provides that when “a prisoner brings a civil action or files an appeal in forma pauperis, the prisoner shall be required to pay the full amount of

a filing fee.” 28 U.S.C. § 1915(b)(1). Because there is no room for statutory interpretation of this unequivocal language, Plaintiff’s motion will be denied. In other words, it was Plaintiff and he alone that chose to invoke the jurisdiction of this Court to review his § 1983 complaint. Accordingly, he is bound by the PLRA to pay the full filing fee. See Avila v. United States, 2015 U.S. Dist. LEXIS 75702 (M.D.N.C. May 6, 2015) (citing cases).

IT IS, THEREFORE, ORDERED that Plaintiff’s “Motion to Nullify Co-Payment Fees” is **DENIED**. (Doc. No. 10).

Signed: December 22, 2016

A handwritten signature in black ink, appearing to read "Frank D. Whitney", written over a horizontal line.

Frank D. Whitney
Chief United States District Judge

