

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA**

Darrell W. Clifford,)	
)	
Plaintiff,)	ORDER (AMENDED)
)	
vs.)	
)	
Governor Jack Dalrymple, et. al.,)	Case No. 1:16-cv-120
)	
Defendants.)	

Plaintiff, an inmate at the North Dakota State Penitentiary, seeks to commence the above entitled action without the prepayment of fees and has submitted an application to proceed *in forma pauperis*. He has consented to the undersigned’s exercise of jurisdiction. (Docket No. 6).

Although he is an inmate, plaintiff must pay the statutory filing fee of \$400.00 for this action. See 28 U.S.C. § 1915(b)(1). The only question is whether he must pay the filing fee up front or whether he can proceed without prepayment of the filing fee.

Plaintiff states in his application to proceed *in forma pauperis* that his prison account has a balance of \$114,000. (Docket No. 1). The Certification of Inmate Account and Asset attached to the application states that the balance of plaintiff’s inmate account was \$114,718.25 as of April 27, 2016. (Docket No. 1-1). Based upon this information, the undersigned court concludes that plaintiff has more than sufficient funds in his inmate spending account to pay the statutory filing fee up front.

Accordingly, the undersigned **DENIES** plaintiff’s application to proceed *in forma pauperis* (Docket No. 2). The court shall dismiss this matter without prejudice if plaintiff does not pay the statutory filing fee in its entirety by July 18, 2016. Upon payment of the filing fee, the court shall conduct an initial review of plaintiff’s complaint as mandated by 28 U.S.C. § 1915A. Section

1915A provides in relevant part that the court shall dismiss any complaint that (1) is frivolous, malicious, or fails to state a claim upon which relief may be granted, or (2) seeks monetary defendant from an immune defendant. 28 U.S.C. §§ 1915A(a) and (b).

IT IS SO ORDERED.

Dated this 24th day of June, 2016.

/s/ Charles S. Miller, Jr.
Charles S. Miller, Jr., Magistrate Judge
United States District Court