

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

**Robert Martin,**

**Plaintiff,**

**v.**

**Case No. 2:12-cv-0341**

**Gwendolyn L. Woods,**

**JUDGE ALGENON L. MARBLEY  
Magistrate Judge Kemp**

**Defendant.**

**OPINION AND ORDER**

**I.**

On September 24, 2012, the Court issued an order adopting the Magistrate Judge's Report and Recommendation denying plaintiff Robert Martin leave to proceed *in forma pauperis* because he was barred by the "three-strikes" rule of 28 U.S.C. §1915(g). The Court directed Mr. Martin to pay the entire \$350.00 filing fee within thirty days and warned that the case would be dismissed if he did not do so and would not be reinstated even upon subsequent payment of the filing fee. See McGore v. Wrigglesworth, 114 F.3d 601 (6th Cir. 1997); see also In re Alea, 286 F.3d 378, 381 (6th Cir. 2002).

More than thirty days have passed since the Court's order and Mr. Martin has not paid the filing fee. Consequently, Mr. Martin's complaint shall be filed for the purposes of the record and will be dismissed without prejudice for failure to prosecute. Further, Mr. Martin will be assessed the full \$350.00 filing fee. As explained by the Court in Alea, "[n]ot to require the payment of the full fee would permit a prisoner subject to the three-strikes rule to continue to file civil complaints - thus taking much valuable time away from other non-frivolous litigation - without any consequence beyond their mere dismissal under §1915(g)." Alea, 286 F.3d at 382. Further, "[a]lthough the requirement that a prisoner litigant may be liable for the payment of the full filing fee despite the dismissal of his action may be burdensome, it is not unfair." Id.

**II.**

Based on the foregoing, the Clerk shall file the complaint in this action. This case is

**DISMISSED WITHOUT PREJUDICE** for failure to prosecute.

Further, plaintiff is assessed the \$350.00 filing fee for this civil action and is liable for the payment of the entire amount. Accordingly, the custodian of Mr. Martin's inmate trust fund account shall submit payments from that account as and when funds are deposited therein until the full filing fee of \$350.00 has been paid to the Clerk of this Court. Checks are to be made payable to:

Clerk, U.S. District Court

Checks are to be sent to:

Prisoner Accounts Receivable  
Joseph P. Kinneary United States Courthouse  
Room 121  
85 Marconi Blvd.  
Columbus, OH 43215

Mr. Martin's name and this case number must be noted on the remittance.

Further, the Clerk shall mail a copy of this Order to the plaintiff and the prison cashier's office. The Clerk is **FURTHER DIRECTED** to forward a copy of this Order to the Court's financial office in Columbus.

**IT IS SO ORDERED.**

s/Algenon L. Marbley  
Algenon L. Marbley  
United States District Judge