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

Allen Quintanilla, et al. :

Plaintiffs, :

v. : Case No. 2:13-cv-121

Mansfield Correctional : JUDGE PETER C. ECONOMUS Institution, et al. Magistrate Judge Kemp

Defendants. :

ORDER

Plaintiffs Allen Quintanilla and Wayne Castle, Jr. have filed a joint Motion to Suspend Court Fines and Costs until release from incarceration (Doc. 13). Mr. Quintanilla and Mr. Castle, both state prisoners, filed this civil action alleging that prison officials failed to take any actions in response to their complaints that other inmates had threatened their lives and their families. The case was dismissed on April 8, 2013.

When they initiated this action, Mr. Quintanilla and Mr. Castle filed motions for leave to proceed in forma pauperis, both of which were granted (Docs. 2 & 5). In accordance with 28 U.S.C. §1915(b)(1), which governs proceedings in forma pauperis in prisoner-initiated cases, the Court assessed Plaintiffs the full amount of the Court's \$350 civil filing fee, but, according to the formula set forth in §1915(b), ordered an initial partial payment and monthly installment payments until the fee is fully paid. Plaintiffs have asked that the monthly payments be suspended until they are released from custody.

By law, the only time a prisoner proceeding in forma pauperis is relieved from making payments is when the amount in the prisoner's account is under \$10.00 for the month. 28 U.S.C. §1915(b)(2). There is nothing in the relevant statute which

suggests "that a prisoner may deviate from the payment schedule provided, or that a court may ... defer a prisoner's payment until he is released from custody." See 28 U.S.C. §1915(b)(2); Ippolito v. Buss, 293 F. Supp.2d 881, 883 (N.D. Ind. 2003). Indeed, at least one court has held that "deferring the required payments would destroy the purpose of the statute," which is to prevent the filing of frivolous lawsuits, because "the potentially constraining force of immediate liability would be lost." Id. Moreover, "ensuring payment of the full amount of filing fees is much easier while a prisoner is in custody and has a prisoner's trust account, it is not so simple once a prisoner has been released." Id.

Simply put, there is no legal basis for granting Plaintiffs' request, and the Court would violate the law, as enacted by Congress, were it to do so. For that reason, Plaintiffs' Motion to Suspend Court Fines and Costs (Doc. 13) is denied.

Any party may, within fourteen days after this Order is filed, file and serve on the opposing party a motion for reconsideration by a District Judge. 28 U.S.C. §636(b)(1)(A), Rule 72(a), Fed. R. Civ. P.; Eastern Division Order No. 14-01, pt. IV(C)(3)(a). The motion must specifically designate the order or part in question and the basis for any objection. Responses to objections are due fourteen days after objections are filed and replies by the objecting party are due seven days thereafter. The District Judge, upon consideration of the motion, shall set aside any part of this Order found to be clearly erroneous or contrary to law.

This order is in full force and effect even if a motion for reconsideration has been filed unless it is stayed by either the Magistrate Judge or District Judge. S.D. Ohio L.R. 72.4.

/s/Terence P. Kemp United States Magistrate Judge