

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

FREDERICK BANKS,

Plaintiff,

v.

**Civil Action 2:17-cv-520
Judge Michael H. Watson
Magistrate Judge Jolson**

**TWENTY TO FORTY UNKNOWN NAMED
AGENTS OF THE FEDERAL BUREAU OF
INVESTIGATION PITTSBURGH FIELD
OFFICE, et al.,**

Defendants.

REPORT AND RECOMMENDATION

Plaintiff Frederick Banks, a *pro se* prisoner, filed a Motion for Leave to Proceed *in forma pauperis* on June 16, 2017. (Doc. 1). Although Mr. Banks did not file the correct form, which is an application and affidavit by an incarcerated person to proceed without prepayment of fees, his application reflects that he may have sufficient cash in a checking or savings account to pay the Court's filing fee. Consequently, the Court **RECOMMENDS** that Mr. Banks's Motion for Leave to Proceed *in forma pauperis* be **DENIED**. The Court further **RECOMMENDS** that Mr. Banks be **GRANTED** thirty days to either pay the Court's filing fee or submit the proper form. If he fails to do so, the Court shall recommend dismissal of his complaint.

If Mr. Banks opts to proceed with this litigation, the Court reminds him that his complaint, which appears to have no connection to the Southern District of Ohio, may be subject to dismissal as frivolous under 28 U.S.C. § 1915(e)(2). This Court is aware that Mr. Banks has been declared a vexatious litigant, who "has been warned on multiple occasions that his filing of meritless, duplicative motions, and initiation of frivolous, duplicative, defective and meritless

lawsuits, will not be tolerated.” *Banks v. Pope Francis*, No. 15-1385, 2015 WL 8207532, at *3–4 (W.D. Pa. Dec. 8, 2015) (noting that the Court attempted to quantify the number of cases filed by Mr. Banks but “stopped counting at seventy-five,” although there were “considerably more filings than that”). Additionally, his admission to filing the “same complaint in several judicial districts” is troubling. (Doc. 1-1 at 1).

Nevertheless, for the reasons stated, the Court **RECOMMENDS** that Mr. Banks’s Motion for Leave to Proceed *in forma pauperis* be **DENIED** (Doc. 1) and he be **GRANTED** thirty days to either pay the Court’s filing fee or submit the proper form. If he fails to do so, the Court shall recommend dismissal of his complaint.

Procedure on Objections

If any party objects to this Report and Recommendation, that party may, within fourteen (14) days of the date of this Report, file and serve on all parties written objections to those specific proposed findings or recommendations to which objection is made, together with supporting authority for the objection(s). A Judge of this Court shall make a *de novo* determination of those portions of the Report or specified proposed findings or recommendations to which objection is made. Upon proper objections, a Judge of this Court may accept, reject, or modify, in whole or in part, the findings or recommendations made herein, may receive further evidence or may recommit this matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1).

The parties are specifically advised that failure to object to the Report and Recommendation will result in a waiver of the right to have the District Judge review the Report and Recommendation *de novo*, and also operates as a waiver of the right to appeal the decision of

the District Court adopting the Report and Recommendation. *See Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

IT IS SO ORDERED.

Date: June 19, 2017

/s/ Kimberly A. Jolson
KIMBERLY A. JOLSON
UNITED STATES MAGISTRATE JUDGE