

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON**

JOHN R. DEMOS,

Plaintiff,

:

Case No. 3:10-cv-116

-vs-

District Judge Thomas M. Rose

Magistrate Judge Michael R. Merz

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UNITED STATES OF AMERICA,

Defendant.

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**ORDER GRANTING *IN FORMA PAUPERIS* STATUS**

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Plaintiff John R. Demos, a prisoner, brought this action *pro se* seeking a writ of habeas corpus *ad testificandum* and has filed an application to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915(a)(Doc. No. 1). Upon the Court’s Order (Doc. No. 3), Plaintiff has now filed an amendment to that Application (Doc. No. 4).

In accordance with section 804(a)(3) of the Prison Litigation Reform Act of 1995, Pub. L. No. 104-134, 110 Stat. 1321, amending 28 U.S.C. § 1915, plaintiff must pay an initial partial filing fee of 20 percent of the greater of the average monthly deposits to his or her prison account or the average monthly balance in his or her account for the six-month period immediately preceding the filing of the complaint. After payment of the initial partial filing fee, plaintiff is further required to make monthly payments of 20 percent of the preceding month's income credited to his or her prison account until he or she pays the full amount of the filing fee. Prison Litigation Reform Act of 1995, Pub. L. No. 104-134, 110 Stat. 1321, 804(a)(3).

Plaintiff’s application reveals that he or she has insufficient funds in his or her prison account to pay the full filing fee; he or she currently possesses the sum of \$123.85 as of March 31, 2010, in

his or her prison account; his or her average monthly balance for the six month period prior to the filing of the complaint was \$0.21; and his or her average monthly deposits for the six-month period prior to the filing of the complaint amounted to \$22.31.

After consideration by this Court of the plaintiff's affidavit of indigence only, without regard to the merits of this case, plaintiff's motion to proceed *in forma pauperis* is hereby GRANTED pursuant to 28 U.S.C. § 1915(a) as follows: **Plaintiff is assessed an initial partial filing fee of \$4.46** (20 percent of average monthly deposits/20 percent of average monthly balance). The incarcerating institution is ORDERED to forward from plaintiff's prison account to the Clerk of Court located in Dayton, Ohio, the initial partial filing fee assessed against plaintiff forthwith. Thereafter, the incarcerating institution is ORDERED to forward to the Clerk of Court located in Dayton, Ohio, monthly payments of 20 percent of plaintiff's preceding month's income credited to his or her prison account each time the amount in plaintiff's accounts exceeds \$10.00 until the full amount of the filing fee (\$350.00) is paid. ***The prisoner's name and case number must be noted on each remittance.***

Checks are to be made payable to: **Clerk, U.S. District Court**

Checks are to be sent to:

**Prisoner Accounts Receivable  
Room 712  
200 West Second Street  
Dayton, Ohio 45402**

No process shall be issued pending further order of the Court.

April 13, 2010.

s/ **Michael R. Merz**  
United States Magistrate Judge