

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

LUNA LATOYA BEY, *et al.*, :
Plaintiffs, :
v. : Case No. 3:21-cv-128
RICHARD BIEHL, Chief of Police, : JUDGE WALTER H. RICE
Defendant. :

DECISION AND ENTRY ADOPTING UNITED STATES MAGISTRATE
JUDGE'S REPORT AND RECOMMENDATIONS (DOC. #8);
DISMISSING COMPLAINT WITHOUT PREJUDICE PURSUANT TO
FED. R. CIV. P. 41(b); JUDGMENT TO ENTER IN FAVOR OF
DEFENDANT AND AGAINST PLAINTIFFS; TERMINATION ENTRY

On April 23, 2021, *pro se* Plaintiffs Luna LaToya Bey and Aladdin Moroc Bey filed suit against "Chief Biehl Richard." They did not pay the \$402.00 filing fee. The purported Complaint, which contains no factual allegations or claims, was accompanied by a document entitled "Affidavit of Financial Statement," in which Plaintiffs appear to argue that they have a constitutional right to file their Complaint without paying the requisite filing fee or complying with the Court's normal procedure of filing a properly-supported motion for leave to proceed *in forma pauperis*. Doc. #1-2.

On August 13, 2021, United States Magistrate Judge Peter Silvain ordered Plaintiffs to either pay the filing fee or show cause in writing why they should be

permitted to proceed *in forma pauperis*. Doc. #7. When Plaintiffs did neither within the time allotted, Magistrate Judge Silvain, on September 7, 2021, issued a Report and Recommendations, recommending that the Court dismiss the case without prejudice for failure to prosecute. Doc. #8.

On the same date, Plaintiffs filed a document entitled "Affidavit of Fact, Writ of Error." Doc. #9. Citing various constitutional provisions, Plaintiffs again argue that there is no need to file a motion for leave to proceed *in forma pauperis* or pay a filing fee. This document appears to be an untimely response to the Show Cause Order and will not be considered.

Moreover, although Plaintiffs were advised of their right to file Objections to the Report and Recommendations, and of the consequences of failing to do so, no Objections were filed within the time allotted. Given that Plaintiffs have neither paid the requisite filing fee nor filed a motion for leave to proceed *in forma pauperis*, with supporting information about their income, assets and liabilities, the Court ADOPTS the Report and Recommendations, Doc. #8, and DISMISSES the above-captioned case WITHOUT PREJUDICE for failure to prosecute. Should Plaintiffs choose to refile this action, they must either pay the filing fee or file a motion for leave to proceed *in forma pauperis*.

Judgment shall be entered in favor of Defendant and against Plaintiffs.

The captioned case is hereby ordered terminated upon the docket records of the United States District Court for the Southern District of Ohio, Western Division, at Dayton.

Date: December 16, 2021



WALTER H. RICE
UNITED STATES DISTRICT JUDGE