

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

EVERETT DEWAYNE HILL, JR.)	
)	
Plaintiff,)	
)	
vs.)	NO. CIV-20-1007-HE
)	
FNU ADKINS, <i>et al.</i> ,)	
)	
Defendants.)	

ORDER

Plaintiff Everett Dewayne Hill, Jr., a pretrial detainee appearing *pro se*, filed this § 1983 action alleging his constitutional rights were violated during his detention. The case was referred to Magistrate Judge Suzanne Mitchell for initial proceedings. Judge Mitchell granted plaintiff's request to proceed *in forma pauperis* and ordered him to make an initial payment of \$12.17 by November 10, 2020. After plaintiff failed to make the initial payment, Judge Mitchell issued a Report and Recommendation recommending that the case be dismissed without prejudice. Plaintiff has responded to the Report, which triggers *de novo* review of the matters to which objection was made.

Plaintiff's objection indicates that he was unable to pay the \$12.17 by November 10, but that a family member apparently sought to make the payment at some point. According to the objection, the court clerk's office advised that the entire filing fee would have to be paid within three months of the initial payment and, because he and/or the family member was unwilling or unable to pay the fee in three months, the initial fee was not paid. Plaintiff asks for clarification.

The court declines to belabor the question of what was asked of the clerk, or what the staff member said, or how the family member interpreted it. The applicable requirement and course of payment was clearly and correctly set out in Judge Mitchell's order. *See* 28 U.S.C. § 1915(b)(1). The plaintiff could have paid the initial fee and then sought clarification of any question he might have, but he did not. Rather, the initial payment of \$12.17 remains unpaid and has been so for approximately two months since the applicable deadline.

In these circumstances, the court concludes the case should be dismissed for failure to pay the initial filing fee as required by the court's order. The Report and Recommendation [Doc. #9] is **ADOPTED** and the case is **DISMISSED** without prejudice.

IT IS SO ORDERED.

Dated this 7th day of January, 2021.



JOE HEATON
UNITED STATES DISTRICT JUDGE