

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ANTHONY MATTHEWS, et al. : CIVIL ACTION  
:   
v. :   
:   
JOHN STREET, et al. : NO. 07-2011

MEMORANDUM - ORDER

Ludwig, J.

May 30, 2007

Plaintiff, a prisoner at the Philadelphia Detention Center, filed this civil action requesting in forma pauperis,<sup>1</sup> without prepayment of fees or security. The Prison Litigation Reform Act of 1995, Pub. L. No. 104-134, 110 Stat. 1321 (April 26, 1996), which amends 28 U.S.C. § 1915, establishes certain financial requirements for prisoners attempting to bring a civil action or file an appeal in forma pauperis.

Under the Act, a prisoner in a civil action suing forma pauperis must pay the full amount of the \$350 filing fee. 28 U.S.C. § 1915(b)(1). The prisoner must submit a certified copy of his inmate trust fund account statement for the six-month period immediately preceding the filing of his complaint so it can be determined how the \$350 filing fee will be paid. 28 U.S.C. § 1915(a)(2). The prisoner must obtain this statement from the appropriate official of each prison at

---

1. Suits brought in forma pauperis are governed by 28 U.S.C. § 1915.

which he or she was or is confined. Id. Next, an assessment must be made of [the prisoner's financial status] and, when funds exist, collected, as a partial payment of any court fees required by law, an initial partial filing fee of 20 percent of the greater of - (A) the average monthly deposits to the prisoner's account; or (B) the average monthly balance in the prisoner's account for the 6-month period immediately preceding the filing of the complaint . . . ." Id.

Based upon plaintiff's financial statement, an initial partial filing fee of \$9.52 is assessed. The appropriate Warden will be directed to deduct \$9.52 from plaintiff's inmate account, when such funds become available, and forward that amount to the Clerk of the United States District Court for the Eastern District of Pennsylvania. Periodically thereafter, each time the balance in plaintiff's inmate account exceeds \$10, an amount no greater than 20 percent of the money credited to plaintiff's account during the preceding month will be deducted and forwarded to the Clerk of Court until the filing fee is paid.

Plaintiff may have been unaware of the requirements of the Act, and that even if the full filing fee, or any part of it, has been paid, the action will be dismissed if it is: (1) frivolous or malicious; (2) fails to state a claim upon which relief may be granted; or (3) seeks monetary relief

against a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2)(B). If the lawsuit is dismissed for any of these reasons, the Act does not permit the return of the filing fee.

Plaintiff is granted until June 15, 2007 within which to decide whether to proceed. If plaintiff decides not to proceed, he need not pay the \$350 filing fee.

Accordingly:

1. The petition is denied without prejudice to its reassertion in conformance with the terms of this order;

2. If plaintiff files a notice that he will proceed, which will obligate him to pay the \$350 filing fee, the action will be reinstated; and

3. The Clerk of Court shall close this case statistically.

BY THE COURT:

/s/ Edmund V. Ludwig  
EDMUND V. LUDWIG, J.