

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

DEVIN M. LAU	:	CIVIL ACTION
	:	
v.	:	
	:	
PENNSYLVANIA DEPT. OF CORRECTIONS, ET AL.	:	NO. 09-2865

M E M O R A N D U M A N D O R D E R

Plaintiff, an inmate at the State Correctional Institution at Chester (SCI-Chester), seeks to bring a civil action in forma pauperis,¹ without prepayment of fees or security therefor, asserting claims pursuant to 42 U.S.C. § 1983. The Prison Litigation Reform Act of 1995, Pub. L. No. 104-134, 110 Stat. 1321 (April 26, 1996) (the "Act"), which amends 28 U.S.C. § 1915, establishes certain financial requirements for prisoners who are attempting to bring a civil action or file an appeal in forma pauperis.

Under the Act, a prisoner bringing a civil action in forma pauperis must pay the full amount of the \$350 filing fee in installments, pursuant to 28 U.S.C. § 1915(b)(1). Plaintiff may not have known when he brought this action that he must pay the filing fee, and that even if the full filing fee, or any part of it, has been paid, this action may be dismissed sua sponte, pursuant to 28 U.S.C. § 1915(e)(2)(B), and the Act does not permit the prisoner to get his filing fee back.

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


Plaintiff is also informed that venue is improper in the Eastern District of Pennsylvania because the events giving rise to this complaint did not occur in this judicial district, and plaintiff fails to allege that any defendant resides in this judicial district. 28 U.S.C. § 1391(b).

We shall give plaintiff twenty (20) days from the date of this order to decide whether he wants to proceed with this case. If by that time, plaintiff decides not to proceed with this case, he need not pay the \$350 filing fee.

Accordingly, it is, this _____ day of June, 2009, hereby ORDERED that:

1. The petition is DENIED WITHOUT PREJUDICE to its reassertion in accordance with the terms of this order;
2. If plaintiff files with the Court, within twenty (20) days from the date of this order, a notice that he wishes to proceed with this action and thereby obligate himself to pay the \$350 filing fee, this action will be reinstated, and it will be transferred to the United States District Court for the Middle District of Pennsylvania, where venue appears to be proper in this case; and
3. The Clerk of Court shall CLOSE this case statistically.

BY THE COURT:


ROBERT F. KELLY, SR. J.