

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Norris Allen Martin,)
)
 Plaintiff,)
)
 vs.)
)
 F. Emory Rush, investigator; Michael R.)
 Culler, Jr., Defense Attorney; Jack)
 Coleman, Detective; Walter M. Bailey,)
 Solicitor; Lisa W. Mizell, Clerk of)
 Court; L. Clark Whetstone, investigator;)
 Peggy D. Davis, Judge; J. Frank)
 Quattlebaum, Solicitor; Barry Mock,)
 SCDC Director Inmate Records; Ted)
 Shealy, SLED lab; James C. Williams,)
 Jr., Judge; Rosalyn Frierson, Director,)
 Court Admin.; Richard Murray, Judge;)
 Barbara Walters, Detective; Thomas W.)
 Behrman, M.D.; Robert N. Milling,)
 M.D.; Henry D. McMaster, Former)
 Attorney General; Costa Pleicones,)
 Judge; Christopher J. Murphy, Assistant)
 Solicitor; Boone Walters, Police Chief,)
 and E. Charles Grose, Jr., Defense)
 Attorney,)
)
 Defendants.)
)

C/A No.: 5:13-693-TLW-SVH

ORDER

This is a civil action filed by a state prisoner. Therefore, in the event that a limitations issue arises, Plaintiff shall have the benefit of the holding in *Houston v. Lack*, 487 U.S. 266 (1988) (prisoner’s pleading was filed at the moment of delivery to prison authorities for forwarding to District Court). Under Local Civil Rule 73.02(B)(2) (D.S.C.), pretrial proceedings in this action have been referred to the assigned United States Magistrate Judge.

PAYMENT OF THE FILING FEE:

By filing this case, Plaintiff has incurred a debt to the United States of America in the amount of \$350. *See* 28 U.S.C. § 1914. This debt is not dischargeable in the event Plaintiff

seeks relief under the bankruptcy provisions of the United States Code. *See* 11 U.S.C. § 523(a)(17). The Prison Litigation Reform Act (PLRA) of 1996 permits a prisoner to file a civil action without **prepayment** of fees or security, but requires the prisoner “to pay the full amount of the filing fee” as funds are available. *See* 28 U.S.C. § 1915(a), (b). **The agency having custody of Plaintiff shall collect payments from Plaintiff’s prisoner trust account in accordance with 28 U.S.C. § 1915(b)(1) and (2), until the full filing fee is paid.** *See Torres v. O’Quinn*, 612 F.3d 237, 252 (4th Cir. 2010) (“We hold that 28 U.S.C. § 1915(b)(2) caps the amount of funds that may be withdrawn from an inmate’s trust account at a maximum of twenty percent *regardless of the number of cases or appeals the inmate has filed.*”) (emphasis in original).

Plaintiff submitted an Application to Proceed Without Prepayment of Fees and Affidavit (Form AO 240) and a Financial Certificate, which are construed as a Motion for Leave to Proceed *in forma pauperis*. *See* 28 U.S.C. § 1915(a)(1), (2). A review of the motion reveals that Plaintiff does not have the funds to pay the first installment of the filing fee. Therefore, the amount due from Plaintiff is currently \$350.

Plaintiff’s Motion for Leave to Proceed *in forma pauperis* [Entry #2] is **granted**.

TO THE CLERK OF COURT:

The Clerk of Court shall list the defendants on the docket as they are listed in the caption of this order.

This case is subject to summary dismissal based on an initial screening conducted pursuant to 28 U.S.C. § 1915 and/or 28 U.S.C. § 1915A. Therefore, the Clerk of Court shall not issue any summonses nor shall the Clerk forward this matter to the United States Marshal for service of process at this time.

The Clerk of Court shall not enter any change of address submitted by Plaintiff which directs that mail be sent to a person other than Plaintiff unless that person is an attorney admitted to practice before this court who has entered a formal appearance.

TO PLAINTIFF:

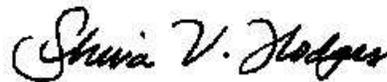
Plaintiff must place the civil action number listed above on any document provided to the court pursuant to this order. **Any future filings in this case must be sent to the address below.** All documents requiring Plaintiff’s signature shall be signed with Plaintiff’s full legal name written in Plaintiff’s own handwriting. *Pro se* litigants shall **not** use the “s/typed name” format used in the Electronic Case Filing System. In all future filings with

this court, Plaintiff is directed to use letter-sized (8½ inches by 11 inches) paper only, to write or type text on one side of a sheet of paper only and not to write or type on both sides of any sheet of paper. Plaintiff is further instructed not to write to the edge of the paper, but to maintain one inch margins on the top, bottom, and sides of each paper submitted.

Plaintiff is a *pro se* litigant. Plaintiff's attention is directed to the following important notice:

You are ordered to always keep the Clerk of Court advised **in writing (901 Richland Street, Columbia, South Carolina 29201)** if your address changes for any reason, so as to assure that orders or other matters that specify deadlines for you to meet will be received by you. If as a result of your failure to comply with this order, you fail to meet a deadline set by this court, **your case may be dismissed for violating this order.** Therefore, if you have a change of address before this case is ended, you must comply with this order by immediately advising the Clerk of Court in writing of such change of address and providing the court with the docket number of all pending cases you have filed with this court. Your failure to do so will not be excused by the court.

IT IS SO ORDERED.



Shiva V. Hodges
United States Magistrate Judge

April 24, 2013
Columbia, South Carolina