

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

HANDSOME P. PARKER, Plaintiff, vs. YANKTON CAMP, WARDEN J. COX, CORRECTIONAL OFFICER BEATTY, and LT. KRYTO, Defendants.	4:21-CV-04001-KES ORDER REQUIRING PLAINTIFF TO FILE AN ADDITIONAL NOTICE
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Plaintiff, Handsome P. Parker, filed a prisoner pro se civil rights lawsuit under 28 U.S.C. § 1331; *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 288, 397 (1971). Docket 1. This court ordered Parker to pay an initial partial filing fee of \$173.38 by February 22, 2021. Docket 17. Parker moves for reconsideration on the initial partial filing fee amount and claims that there was an error made on his prisoner trust account report. Docket 18. This court ordered Parker to file a new prisoner trust account report, so the court could properly consider his motion for reconsideration. Docket 19.

On January 29, 2021, Parker filed a motion to withdraw his complaint. Docket 20. He filed a new certified prisoner trust account report and another motion to withdraw on February 10, 2021. Dockets 21, 22.¹ The next day he paid his initial partial filing fee of \$173.38, that was originally ordered by the court and

¹ Parker's new prisoner trust account report shows an average monthly deposit of \$225.32, and an average monthly balance of \$190.94. Docket 21. An initial partial filing fee of \$45.06 (20 percent of the average monthly deposit) is required. See 28 U.S.C. § 1915(b)(1). The record reflects that Parker has already paid \$293.38.

an additional \$120.00. *See* Docket 17. Parker has now paid a total of \$293.38. This court granted Parker leave to proceed to proceed in forma pauperis. Docket 17. The total filing fee to file a federal lawsuit with in forma pauperis status is \$350.00. Under the Prison Litigation Reform Act (PLRA), a prisoner who “brings a civil action or files an appeal in forma pauperis . . . shall be required to pay the full amount of a filing fee.” 28 U.S.C. § 1915(b)(1). Parker must pay the entire fee even if he wishes to withdraw his lawsuit.

This court wonders whether Parker would like to withdraw his lawsuit with the knowledge that he will have to pay the entire filing fee even if he withdraws. The court orders Parker to file a notice letting the court know whether he wants to withdraw his lawsuit (even though he will still have to pay the full filing fee) or whether the court may proceed to screen his complaint under 28 U.S.C. § 1915A. If Parker does not file a notice by **March 17, 2021**, this court will grant his previous motions to withdraw.

Thus, it is ORDERED:

1. That Parker must file a notice as to whether he wishes to withdraw his complaint by **March 17, 2021**. If Parker does not comply, the court will proceed to rule on his previous motions.

Dated February 17, 2021.

BY THE COURT:

/s/ Karen E. Schreier

KAREN E. SCHREIER
UNITED STATES DISTRICT JUDGE