

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

<p>PETER OROMO, Plaintiff, vs. MINNEHAHA COUNTY JAIL, Defendant.</p>	<p>4:21-CV-04141-KES ORDER GRANTING PLAINTIFF'S MOTION TO PROCEED IN FORMA PAUPERIS AND REQUIRING PLAINTIFF TO PAY AN INITIAL PARTIAL FILING FEE</p>
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Plaintiff, Peter Oromo, an inmate at the Minnehaha County Jail, filed a pro se civil rights lawsuit under 42 U.S.C. § 1983. Docket 1. Oromo moves to proceed in forma pauperis and included his prisoner trust account report. Dockets 2, 5.

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). The court may, however, accept partial payment of the initial filing fee where appropriate. Thus, “[w]hen an inmate seeks pauper status, the only issue is whether the inmate pays the entire fee at the initiation of the proceedings or over a period of time under an installment plan.’” *Henderson v. Norris*, 129 F.3d 481, 483 (8th Cir. 1997) (alteration in original) (quoting *McGore v. Wrigglesworth*, 114 F.3d 601, 604 (6th Cir. 1997)).

The initial partial filing fee that accompanies an installment plan is calculated according to 28 U.S.C. § 1915(b)(1), which requires a payment 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 or notice of appeal.

Oromo reports average monthly deposits of \$182.17 and an average monthly balance of \$0.99. Docket 5. Based on the information regarding Oromo's prisoner trust account, the court grants Oromo leave to proceed in forma pauperis, but he must pay an initial partial filing fee of \$36.43 (20 percent of his average monthly deposit). Oromo must pay the initial partial filing fee of \$36.43 by **October 12, 2021**. Failure to pay the filing fee by October 12, 2021, will result in dismissal without prejudice of Oromo's complaint.

Thus, it is ORDERED:

1. That Oromo's motion to proceed in forma pauperis (Docket 2) is granted. Oromo must make a payment of **\$36.43 by October 12, 2021**, made payable to the Clerk, U.S. District Court. If Oromo does not pay the initial partial filing fee by October 12, 2021, his complaint will be dismissed without prejudice. The court will conduct a 28 U.S.C. § 1915A screening after he pays his initial partial filing fee.
2. That the institution having custody of Oromo is directed that whenever the amount in Oromo's trust account, exclusive of funds available to him in his frozen account, exceeds \$10.00, monthly payments that equal 20 percent of the funds credited the preceding month to Oromo's trust

account shall be forwarded to the U.S. District Court Clerk's Office under 28 U.S.C. § 1915(b)(1) until the \$350 filing fee is paid in full.

Dated September 9, 2021.

BY THE COURT:

/s/ Karen E. Schreier

KAREN E. SCHREIER
UNITED STATES DISTRICT JUDGE