

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT GREENEVILLE**

| | | |
|----------------------------|---|------------------------|
| JEFFREY DONALD DURHAM, |) | |
| #312866, |) | |
| |) | |
| <i>Plaintiff,</i> |) | |
| |) | |
| v. |) | No. 2:15-cv-71-JRG-DHI |
| |) | |
| GERALD MCALLISTER, Warden, |) | |
| |) | |
| <i>Defendant.</i> |) | |

MEMORANDUM and ORDER

On April 27, 2015, the Court entered an order directing plaintiff to show cause, within ten (10) days, as to why his case should not be dismissed for failure to prosecute and comply with court orders, [Doc. 6]. The order also forewarned him that his continued failure to respond to court orders would result in the dismissal of his *pro se* civil rights case under 42 U.S.C. § 1983 and advised him that he would be assessed the civil filing fee, even if he failed to respond to the show cause order, [*Id.*].

More than 10 days have passed since entry of that show cause order, and despite the warnings contained therein, plaintiff has failed to respond to the Court's order. Therefore, this action will be dismissed for failure to prosecute and comply with court orders.

However, the dismissal does not affect plaintiff's obligation to pay the filing fee which was triggered at the moment the case was filed. *McGore v. Wrigglesworth*, 114

F.3d 601, 605 (6th Cir. 1997), *overruled on other grounds by Jones v. Bock*, 549 U.S. 199 (2007). Plaintiff, thus, is **ASSESSED** the full filing fee of \$350. 28 U.S.C. § 1915(b)(1).

Finally, the Court **CERTIFIES**, pursuant to 28 U.S.C. § 1915(a)(3), that any appeal from this action would not be taken in good faith and would be totally frivolous. *See* Rule 24 of the Federal Rules of Appellate Procedure.

A separate judgment will enter.

ENTER:

s/J. RONNIE GREER
UNITED STATES DISTRICT JUDGE