Garrett v. Austin et al Doc. 4

IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF TENNESSEE NASHVILLE DIVISION

CHARLES M. GARRETT,)
Plaintiff,)
v.) Case No. 3:13-cv-00344
SGT. AUSTIN, DEPUTY NEWLOVE, and LIEUTENANT TEEMER,)) Judge Sharp)
Defendants.)

ORDER

Plaintiff Charles M. Garrett is state inmate presently incarcerated in the Montgomery County Jail in Clarksville, Tennessee. The plaintiff's *pro* se complaint (ECF No. 1) is before the Court for an initial review pursuant to 28 U.S.C. §§ 1915(e)(2) and 1915A(a). Also pending is the plaintiff's Application to Proceed *in Forma Pauperis* (ECF No. 2).

A. Application to Proceed as a Pauper

Because it appears from his submission that the plaintiff lacks sufficient financial resources from which to pay the full filing fee in advance, the application (ECF No. 2) is **GRANTED**.

Pursuant to 28 U.S.C. § 1915(b), the plaintiff is assessed the full \$350.00 civil filing fee. The custodian of the plaintiff's inmate trust fund account at the institution where he now resides is **DIRECTED** to submit to the Clerk of Court, as an initial payment, the greater of: (a) 20% of the average monthly deposits to the plaintiff's inmate trust account; or (b) 20% of the average monthly balance in the plaintiff's inmate trust fund account for the six-month period immediately preceding the filing of the complaint. 28 U.S.C. § 1915(b) (1). Thereafter, the custodian shall submit 20% of the plaintiff's preceding monthly income (or income credited to the plaintiff's trust account for the preceding month), but only when the plaintiff's monthly income exceeds \$10.00. 28 U.S.C. § 1915(b)(2). Payments shall continue until the \$350.00 filing fee has been paid in full to the Clerk of Court. 28 U.S.C. § 1915(b)(3).

The Clerk of Court **SHALL** send a copy of this order to the Administrator of the Montgomery County Jail to ensure that the custodian of the plaintiff's inmate trust fund account complies with that

2

portion of 28 U.S.C. § 1915 pertaining to the payment of the filing fee. If the plaintiff is transferred from

his present place of confinement, the custodian of his inmate trust fund account must ensure that a copy

of this order follows the plaintiff to his new place of confinement for continued compliance herewith. All

payments made pursuant to this order must be forwarded to the Clerk of Court for the Middle District of

Tennessee.

B. Initial Review of the Complaint

Having conducted the initial review of the complaint as required by 28 U.S.C. §§ 1915(e)(2) and

1915A(a), the Court finds for the reasons stated in the Memorandum Opinion filed herewith that the

complaint fails to state a claim for which relief may be granted. The complaint is therefore DISMISSED

under the authority of 28 U.S.C. § 1915(e)(2)(B)(ii).

It is so **ORDERED**.

Kevin H. Sharp

United States District Judge