

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

JOHN ALBERT STANGEL,)	
)	
Plaintiff,)	
)	
VS.)	No. 15-2292-JDT-tmp
)	
DONNA RANDOLPH, ET AL.,)	
)	
Defendants.)	

ORDER DENYING MOTION TO WAIVE FILING FEE AND
GRANTING MOTION FOR VOLUNTARY DISMISSAL

The *pro se* prisoner Plaintiff, John Albert Stangel, RNI number 71548, who is incarcerated at the Shelby County Correctional Center in Memphis, Tennessee, filed a complaint pursuant to 42 U.S.C. § 1983 on April 30, 2015, accompanied by a motion to proceed *in forma pauperis*. (ECF Nos. 1 & 2.) After Plaintiff submitted the necessary documentation (ECF No. 5), the Court issued an order on May 15, 2015, granting leave to proceed *in forma pauperis* and assessing the \$350 civil filing fee pursuant to 28 U.S.C. §§ 1915(a)-(b). (ECF No. 6.) However, on June 8, 2015, Plaintiff filed the following motion:

The plaintiff John Albert Stangel requesting court grant this motion to wa[i]ve the filing [sic] fee on this complaint, and allow me to voluntorlly [sic] withdraw this lawsuit, not to be refiled. If Judge decides not to drop the filing [sic], I'd still request this complaint be withdrawn.

(ECF No. 8.)

Plaintiff's obligation to pay the civil filing fee accrued at the moment the case is filed. *See McGore v. Wrigglesworth*, 114 F.3d 601, 605 (6th Cir. 1997), *partially overruled on other grounds*

by *LaFountain v. Harry*, 716 F.3d 944, 951 (6th Cir. 2013). Dismissal of the case, whether voluntary or involuntary, does not negate that obligation. *Id.* at 607; *see also In re Alea*, 286 F.3d 378, 381 (6th Cir. 2002). Therefore, the motion to waive the filing fee is DENIED.

Pursuant to Federal Rule of Civil Procedure 41(a), Plaintiff may voluntarily dismiss his case at any time prior to the Defendants filing an answer or a motion for summary judgment. As the Court has not yet screened the complaint or ordered the Defendants to be served, the motion for voluntary dismissal is GRANTED, and this case is hereby DISMISSED without prejudice. The pending motion for injunctive relief (ECF No. 7) is DENIED as moot.

The Clerk is directed to prepare a judgment.

IT IS SO ORDERED.

s/ **James D. Todd**
JAMES D. TODD
UNITED STATES DISTRICT JUDGE