

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

TERENCE LAVON PIERSON,
Plaintiff,
VS.
TIPTON COUNTY JUSTICE SYSTEM,
ET AL.,
Defendants.
No. 16-2329-JDT-cgc

ORDER DIRECTING PLAINTIFF TO FILE A NON-PRISONER
IN FORMA PAUPERIS AFFIDAVIT OR PAY THE \$350 CIVIL FILING FEE

On May 11, 2016, Plaintiff Terence Lavon Pierson, who was, at the time, an inmate at the Bledsoe County Correctional Complex ("BCCX") in Pikeville, Tennessee, filed a pro se complaint pursuant to 42 U.S.C. § 1983, accompanied by a motion seeking leave to proceed in forma pauperis. (ECF Nos. 1 & 2.) In an order issued on May 12, 2016, the Court granted leave to proceed in forma pauperis and assessed the civil filing fee pursuant to the Prison Litigation Reform Act ("PLRA"), 28 U.S.C. §§ 1915(a)-(b). (ECF No. 4.) However, Plaintiff's copy of that order, sent to him at the BCCX, was returned undeliverable on May 31, 2016. (ECF Nos. 5 & 6.) On June 13, 2016, Plaintiff notified the Clerk that he had been released and provided his new address. (ECF No. 7.)

Under the PLRA, a prisoner bringing a civil action must pay the full filing fee of \$350 required by 28 U.S.C. § 1914(a). The statute merely provides the prisoner the opportunity to make a "downpayment" of a partial filing fee and pay the remainder in monthly installments. 28 U.S.C. § 1915(b). However, in this case, the filing fee was not paid prior to Plaintiff's release. Under these

circumstances, the Sixth Circuit has held that “the obligation to pay the remainder of the fees is to be determined solely on the question of whether the released individual qualifies for pauper status.” *McGore v. Wrigglesworth*, 114 F.3d 601, 613 (6th Cir. 1997), *partially overruled on other grounds* by *LaFountain v. Harry*, 716 F.3d 944, 951 (6th Cir. 2013).

Plaintiff is ORDERED to submit, within 30 days after the date of this order, either a properly completed and signed non-prisoner *in forma pauperis* affidavit or the entire \$400 civil filing fee.¹ The Clerk shall mail Plaintiff a copy of the non-prisoner *in forma pauperis* affidavit form along with this order.

Failure to comply with this order in a timely manner will result in the dismissal of this action without further notice, pursuant to Federal Rule of Civil Procedure 41(b), for failure to prosecute.

IT IS SO ORDERED.

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

¹ Twenty-eight U.S.C. § 1914(a) requires a civil filing fee of \$350. However, pursuant to § 1914(b), “[t]he clerk shall collect from the parties such additional fees . . . as are prescribed by the Judicial Conference of the United States.” The Judicial Conference has prescribed an additional administrative fee of \$50 for filing any civil case, except for cases seeking habeas corpus and cases in which the plaintiff is granted leave to proceed *in forma pauperis* under 28 U.S.C. § 1915. Because Plaintiff initially was granted leave to proceed *in forma pauperis* in accordance with the PLRA, the Court did not assess the additional \$50 fee. However, if Plaintiff now chooses to forgo his pauper status and pay the entire fee, he must also pay the \$50 administrative fee.