

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

BOBBY J. HIBBS

Plaintiff,

VS.

UNITED STATES OF AMERICA,
ET AL.

Defendants.

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NO. 3-11-CV-0692-N

ORDER

After conducting a review of the pleadings, files and records in this case, and the Findings and Recommendation of the United States Magistrate Judge in accordance with 28 U.S.C. § 636(b)(1), I am of the opinion that the Findings and Recommendation of the Magistrate Judge are correct, and they are hereby accepted as the Findings of the Court.

Plaintiff has submitted correspondence [doc. #7] asking the court whether he will still be charged the statutory filing fee after the case is dismissed. The court's filing fee order [doc. # 3] requires the payment of a \$350.00 fee in monthly installments by the institution in which plaintiff is incarcerated pursuant to the Prison Litigation Reform Act of 1995 ("PLRA"). See 28 U.S.C. § 1915(b) (West 2000). "The fee provisions of the PLRA were designed to deter frivolous prisoner litigation in the courts 'by making all prisoners seeking to bring lawsuits or appeals feel the deterrent effect created by liability for filing fees.'" *Jackson v. Stinnett*, 102 F.3d 132, 136-37 (5th Cir. 1996) (citation omitted). Section 1915(b)(1) provides that "if a prisoner brings a civil action or files an appeal in forma pauperis, the prisoner shall be required to pay the full amount of a filing fee." 28 U.S.C. 1915(b)(1) (emphasis added); see also *Williams v. Roberts*, 116 F.3d 1126, 1128 (5th Cir. 1997). The Fifth Circuit has explained that the plain language of the PLRA requires that fees be

assessed at the moment the case is filed, regardless of whether the case is later dismissed. *See id.* at 1128; *see also Goins v. Decaro*, 241 F.3d 260, 261 (2nd Cir. 2001). Dismissal of this action does not release plaintiff or the institution where he is incarcerated from the obligation to pay any filing fee previously imposed.

SO ORDERED.

SIGNED June 27, 2011.


DAVID C. GODBEY
UNITED STATES DISTRICT JUDGE