

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

FRANKIE NEALY,
TDCJ-CID NO. 1714921,

Plaintiff,

v.

BETTY WILLIAMS, *et al.*,

Defendants.

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CIVIL ACTION NO. H-13-477

MEMORANDUM OPINION AND ORDER GRANTING MOTION TO DISMISS

The plaintiff has submitted a motion to dismiss his civil rights complaint because he does not wish to pay the filing fee. The courts have generally granted dismissal unless the defendants would suffer some plain legal prejudice other than the mere prospect of a second lawsuit. Manshack v. Southwestern Elec. Power Co., 915 F.2d 172, 174 (5th Cir. 1990). No such prejudice has been shown in the instant case. Therefore, the dismissal shall be granted.

The TDCJ officials administering plaintiff's trust fund accounts shall cease all withholding and payment of the filing fee in this action. Any funds currently being held by the TDCJ officials for future payment to the United States District Clerk regarding the filing fees in this action shall be returned to the plaintiff. Those funds which have already been paid to the Clerk shall not be refunded.

The Clerk shall provide copies of this Memorandum Opinion and Order to the parties; the TDCJ Office of the General Counsel, P.O. Box 13084, Austin, Texas, 78711, Fax Number (512) 936-2159; and the Inmate Trust Fund, P.O. Box 629, Huntsville, Texas 77342-0629, Fax number (936) 293-4197.

The court **ORDERS** the following:

1. The motion to dismiss (Docket Entry 12) is **GRANTED**.
2. The TDCJ-CID Inmate Trust Fund shall **CEASE WITHHOLDING** funds for the filing fee in this action.

SIGNED at Houston, Texas, on this 30th day of April, 2013.



SIM LAKE
UNITED STATES DISTRICT JUDGE