

United States District Court
Southern District of Texas

ENTERED

August 30, 2016

David J. Bradley, Clerk

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

JOSEPH MICHAEL LEMKE,
(TDCJ-CID #01743211)

Petitioner,

vs.

LORIE DAVIS,

Respondent.

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CIVIL ACTION H-16-2118

MEMORANDUM ON DISMISSAL

The petitioner has failed to submit an application to proceed as a pauper or to pay a fee of \$5.00, as required by the Clerk’s Notice of Deficient Pleading entered July 25, 2016. (Docket Entry No. 3). The notice specifically provided that failure to comply as directed may result in the dismissal of this action. The petitioner’s failure to file an application to proceed in forma pauperis or pay the filing fee forces this court to conclude that he lacks due diligence.

Under the inherent powers necessarily vested in a court to manage its own affairs, this court determines that dismissal for want of prosecution is appropriate. *See* FED. R. CIV. P. 41(b); *Link v. Wabash R.R.*, 370 U.S. 626 (1962); *Woodson v. Surgitek, Inc.*, 57 F.3d 1406, 1417 (5th Cir. 1995); 8 JAMES WM. MOORE ET AL., MOORE’S FEDERAL PRACTICE § 41.51(3)(b) & (e) (3d ed. 2016). Upon a proper showing, relief from this order may be granted in accordance with FED. R. CIV. P. 60(b). *See Link*, 370 U.S. at 635.

This action is DISMISSED without prejudice for want of prosecution.

SIGNED at Houston, Texas, on Aug. 30, 2016.

A handwritten signature in black ink, appearing to read "Vanessa D. Gilmore", written over a horizontal line.

VANESSA D. GILMORE
UNITED STATES DISTRICT JUDGE