

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION**

JEFFREY LYN UNDERWOOD,)

Plaintiff,)

v.)

**RIVER NORTH CORRECTIONAL
CENTER,**)

Defendant.)

Case No. 7:18CV00021

OPINION

By: James P. Jones
United States District Judge

Jeffrey Lyn Underwood, Pro Se Plaintiff.

Jeffrey Lyn Underwood, a Virginia jail inmate proceeding pro se, filed this action under 42 U.S.C. § 1983. In his Amended Complaint, he alleges that prison officials have withheld too much of his monthly income toward payment of court fees. I conclude that the action must be summarily dismissed as legally frivolous.

Underwood pursued a prior § 1983 civil action in this court, tried his case to a jury that ruled against him, and unsuccessfully appealed. *Underwood v. Beavers*, 711 F. App'x 122 (4th Cir. 2017) (unpublished). Underwood consented to have twenty percent of his monthly income withheld toward satisfaction of this court's filing fee in that case pursuant to 28 U.S.C. § 1915(b). He similarly consented to pay the separate filing fee required by the court of appeals. Beginning in December 2016, the trust account officer at River North Correctional Center began

withholding forty percent of Underwood's monthly income toward payment of the court fees. Underwood claims that § 1915(b) authorizes withholding only twenty percent of his income, toward payment of his court fees one at a time and demands a refund.

Underwood's claim is without merit. For some time, federal courts of appeals disagreed about whether an inmate litigant must (a) pay twenty percent of his monthly income regardless of the number of cases he has filed or (b) pay twenty percent of his monthly income for *each* case he has filed. The Supreme Court has now settled the issue by ruling that under § 1915(b), "monthly installment payments . . . are to be assessed on a per-case basis." *Bruce v. Samuels*, 136 S. Ct. 627, 629 (2016). Specifically, "§ 1915(b)(2) calls for simultaneous, not sequential, recoupment of multiple filing fees." *Id.* at 631. Thus, withholding forty percent of Underwood's income each month toward satisfaction of the two court fees he owes is lawful. Accordingly, I will summarily dismiss this action as legally frivolous under 42 U.S.C. § 1997e(c)(1).

A separate Final Order will be entered herewith.

DATED: April 12, 2018

/s/ James P. Jones

United States District Judge