

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

ROBERT STEED, MAFAYETTE FIELDS,
LAWRENCE NORTHERN AND JAMES PITTMON,

Plaintiffs,

v.

ORDER

Case No. 14-cv-747-jdp

A-UNIT 3RD SHIFT OFFICER, C/O BURKE,
C/O HOLSCLAW, UNKNOWN 3RD SHIFT
SEGREGATION OFFICER, C/O THILL, RN FRISK,
RN JOHNSON, RN JULIE B. AND RN WARNER,

Defendants.

Plaintiffs, Robert Steed, Mafayette Fields, Lawrence Northern and James Pittmon, prisoners in the custody of the Wisconsin Department of Corrections, have collectively submitted a proposed civil action under 42 U.S.C. § 1983. Additionally, plaintiffs have filed certified copies of their inmate trust fund account statements in support of each of their motions for leave to proceed without prepaying the fee. (Dkts. ##2, 4, 6, 8). After considering their motions and supporting documentation, the court concludes that plaintiffs qualify for indigent status.

Even when a prisoner litigant qualifies for indigent status, the prisoner litigant must pay a portion of the fee returned by the formula set forth in 28 U.S.C. § 1915(b)(1). According to this formula, a prisoner litigant must prepay 20% of the greater of the average monthly balance or the average monthly deposits made to the prisoner's account in the six-month period immediately preceding the filing of the complaint. Additionally, each prisoner in a multiple plaintiff action must pay a separate filing fee. *Boriboune v. Berge*, 391 F.3d 852

(7th Cir. 2004). Therefore, each plaintiff will be assessed a separate initial partial payment of the \$350.00 filing fee as follows:

As to plaintiff Robert Steed, 20% of the average monthly balance is \$144.92, and 20% of the average monthly deposits made to plaintiff's account is \$25.57. Because the greater of the two amounts is 20% of the average monthly balance, or \$144.92, this is the amount plaintiff Robert Steed is assessed as an initial partial payment of the filing fee.

As to plaintiff Mafayette Fields, 20% of the average monthly balance is \$164.67, and 20% of the average monthly deposits made to plaintiff's account is \$2.67. Because the greater of the two amounts is 20% of the average monthly balance, or \$164.67, this is the amount plaintiff Mafayette Fields is assessed as an initial partial payment of the filing fee.

As to plaintiff Lawrence Northern, 20% of the average monthly balance is \$213.18, and 20% of the average monthly deposits made to plaintiff's account is \$7.09. Because the greater of the two amounts is 20% of the average monthly balance, or \$213.18, that is the amount plaintiff Lawrence Northern is assessed as an initial partial payment of the filing fee.

As to plaintiff James Pittmon, 20% of the average monthly balance is \$14.47, and 20% of the average monthly deposits made to plaintiff's account is \$3.52. Because the greater of the two amounts is 20% of the average monthly balance, or \$14.47, that is the amount plaintiff James Pittmon is assessed as an initial partial payment of the filing fee.

For this case to proceed, plaintiffs must submit their initial partial payments on or before November 24, 2014.

If any of the plaintiffs do not have the money in their regular accounts to make the initial partial payment, that plaintiff will have to arrange with prison authorities to pay some or all of the assessment from that plaintiff's release account. This does not mean that that

plaintiff is free to ask prison authorities to pay *all* of the filing fee from the release account. The only amount plaintiffs must pay at this time is the initial partial payment which has been assessed to each. Before prison officials take any portion of that amount from each of plaintiffs' release accounts, they may first take from plaintiffs' regular accounts whatever amount up to the full amount each plaintiff owes. Each plaintiff should show a copy of this order to prison officials to insure that they are aware they should send plaintiffs' initial partial payments to this court.

ORDER

IT IS ORDERED that,

1. Plaintiff Robert Steed is assessed \$144.92; plaintiff Mafayette Fields is assessed \$164.67; plaintiff Lawrence Northern is assessed \$213.18; and plaintiff James Pittmon is assessed \$14.47, as initial partial payments of the \$350.00 fees for filing this case. Plaintiffs are to each submit a check or money order made payable to the clerk of court in the amount of the initial partial payment assessed to them, or advise the court in writing why one or more of the plaintiffs are not able to submit the assessed amount on or before November 24, 2014.

2. If, by November 24, 2014, one or more of the plaintiffs fails to make the initial partial payment or show cause for failure to do so, that plaintiff will be held to have withdrawn this action voluntarily and will be dismissed from this case without prejudice.

3. No further action will be taken in this case until the clerk's office receives plaintiffs' initial partial filing fees as directed above and the court has screened the complaint as required by the PLRA, 28 U.S.C. § 1915A. Once the screening process is complete, a separate order will issue.

Entered this 5th day of November, 2014.

BY THE COURT:

/s/
PETER OPPENEER
Magistrate Judge