

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

TREMAYNE D. EDWARDS,

Plaintiff,

v.

TIM HAINES and JOHN DOE (1) OFFICER,

Defendants.

ORDER

Case No. 16-cv-317-jdp

Plaintiff Tremayne D. Edwards, a prisoner in the custody of the Wisconsin Department of Corrections, has submitted a proposed civil action under 42 U.S.C. § 1983. Plaintiff has not paid the \$400 filing fee nor submitted a motion for leave to proceed without prepayment of the filing fee in this case. However, on April 27, 2016, plaintiff submitted a motion for leave to proceed without prepayment of the filing fee (dkt. #9) and a six-month trust fund account statement (dkt. #10) in case no. 16-cv-265-jdp. Therefore, I will construe his complaint in this case to include a request to proceed without prepayment of the filing fee by adopting the motion for leave to proceed without prepayment of the filing fee (dkt. #9) and six-month trust fund account statement (dkt. #10) filed in case no. 16-cv-265-jdp. After considering the six-month trust fund account statement plaintiff submitted in case no. 16-cv-265-jdp, I conclude that plaintiff qualifies for indigent status.

Even when a prisoner litigant qualifies for indigent status, the litigant must pay a portion of the fee returned by the formula set forth in 28 U.S.C. § 1915(b)(1). Using information for the relevant time period from plaintiff's trust fund account statement, I conclude plaintiff's initial partial filing fee to be \$69.46. For this case to proceed, plaintiff must submit this amount on or before June 2, 2016.

If plaintiff does not have enough money to make the initial partial payment from plaintiff's regular account, plaintiff should arrange with authorities to pay the remainder from plaintiff's release account.

ORDER

IT IS ORDERED that,

1. Plaintiff Tremayne D. Edwards is assessed \$69.46 as an initial partial payment of the \$350.00 fee for filing this case. Plaintiff is to submit a check or money order made payable to the clerk of court in the amount of \$69.46 on or before June 2, 2016 or advise the court in writing why plaintiff is not able to submit the assessed amount on or before June 2, 2016.

2. If, by June 2, 2016, plaintiff fails to make the initial partial payment or show cause for his failure to do so, plaintiff will be held to have withdrawn this action voluntarily and the case will be closed without prejudice to plaintiff's filing this case at a later date.

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

Entered this 12th day of May, 2016.

BY THE COURT:

/s/
PETER OPPENEER
Magistrate Judge