

IN THE MICHIGAN COURT OF APPEALS

ORDER

Re: **In re Stoner**
Docket No. **309041**
L.C. No. **04-000989-FC**

William C. Whitbeck, Judge, acting under MCR 7.211(E)(2), orders:

Plaintiff's correspondence received on April 20, 2012 is treated as a motion for reconsideration of this Court's April 6, 2012 order. The motion for reconsideration is GRANTED, and the April 6, 2012 order is VACATED. The motion to waive fees pursuant to MCR 7.202(4) and MCR 7.206(D)(1)(d) is DENIED because MCL 600.2963 mandates that a prisoner pursuing a civil action be liable for the filing fees. An action for superintending control is a civil action. MCR 3.301(A)(1)(a). Thus, this case has been appropriately docketed as an original civil action brought by plaintiff against the relevant circuit court judge. Because this case is a civil action, it is plainly subject to MCL 600.2963.

Plaintiff is not required to pay an initial partial fee. Further, appellant has already effectively complied with MCL 600.2963(1) by refiling his initially-filed pleadings that had been returned to him. However, for this complaint to be filed, **plaintiff shall submit a written statement to the Clerk's Office of this Court within 21 days clearly stating that he wishes to proceed with this original action for superintending control.** By doing this, plaintiff becomes responsible for paying the \$375 filing fee and may not file another new civil appeal or original action in this Court until such time that either the Department of Corrections remits or plaintiff pays the entire outstanding balance due. MCL 600.2963(8). Failure to comply with this order shall result in the complaint not being filed in this Court and plaintiff not being responsible for paying the filing fee.

If plaintiff timely refiles the pleadings, monthly payments shall be made to the Department of Corrections in an amount of 50 percent of the deposits made to plaintiff's account until the payments equal the balance due of **\$375**. This amount shall then be remitted to this Court. Again, plaintiff may not file either a new civil appeal or an original action until plaintiff pays the entire outstanding balance due. MCL 600.2963(8).


The Clerk of this Court shall furnish two copies of this order to plaintiff.



A true copy entered and certified by Larry S. Royster, Chief Clerk, on

MAY 01 2012

Date


Chief Clerk