

Court of Appeals, State of Michigan

ORDER

Robert Lee Dykes-Bey v Michigan Reformatory Warden

Docket No. **325370**

LC No. **00-000000**

Christopher M. Murray, Chief Judge Pro Tem, acting under MCR 7.211(E)(2), orders:

The motion for reconsideration is GRANTED, and the order dated February 13, 2015 is VACATED. The Court recognizes that application of MCL 600.2963(8) to bar plaintiff from proceeding with the original complaint for habeas corpus would violate the Equal Protection Clause of the Fourteenth Amendment. *Smith v Bennett*, 365 US 708; 81 S Ct 895; 6 L Ed 2d 39 (1961).

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. Plaintiff is not required to pay an initial partial fee. MCL 600.2963(7). However, for this complaint to be filed, **plaintiff shall submit a copy of this order along with a signed statement that he wishes to proceed with this case within 21 days of the date of this order.** 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 provides the signed statement required by this order, 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 plaintiff two copies of this order.

A true copy entered and certified by Jerome W. Zimmer Jr., Chief Clerk, on



APR 01 2015

Date

A handwritten signature in cursive script, reading "Jerome W. Zimmer Jr.", is written over a horizontal line.

Chief Clerk