

Court of Appeals, State of Michigan

ORDER

David Allen Carson v Kinross Correctional Facility Warden

Docket No. **326475**

LC No. **14-013546-AH**

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

The motion for reconsideration is DENIED. This Court's March 31, 2015 order is not contrary to *Smith v Bennett*, 365 US 708; 81 S Ct 895; 6 L Ed 2d 39 (1961), because it allows plaintiff to seek habeas corpus relief in this case by refiling his pleadings without being required to pay an initial partial filing fee and, thus, does not bar him from seeking habeas corpus relief based on a present inability to pay a filing fee. In this regard, *Smith* cannot reasonably be considered to preclude a procedure in which a prisoner seeking habeas corpus relief is required to potentially pay a filing fee from future deposits to his or her prisoner account as a condition of seeking habeas corpus relief where the prisoner will not be barred from seeking such relief based on a present inability to pay a filing fee.

In light of plaintiff's refiling of his returned pleadings, after this order is entered, the Clerk's Office shall notify the Department of Corrections to begin appropriate deductions from future deposits to plaintiff's prisoner account until the \$375 entry fee is collected in accordance with this Court's March 31, 2015 order.



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

MAY 29 2015

Date


Chief Clerk