

Court of Appeals, State of Michigan

ORDER

Charles Lamont Smiles v Donald A Johnston III

Docket No. 331721

LC No. 13-049160-AH

Michael F. Gadola, Judge, acting under MCR 7.211(E)(2), orders:

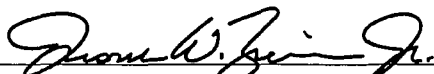
The motion to waive fees is DENIED because MCL 600.2963 mandates that a prisoner pursuing a civil action be liable for the filing fees. Further, appellant's conclusory assertion that MCL 600.2963 violates the equal protection provision of the Michigan Constitution is insufficient to establish any constitutional violation in applying MCL 600.2963 to this case. See, e.g., *People v Payne*, 285 Mich App 181, 195; 774 NW2d 714 (2009). However, it cannot properly be concluded that appellant has failed to pay the outstanding fee he owes this Court in Docket Number 293427 within the meaning of MCL 600.2963(8) where Department of Corrections staff have confirmed to the Clerk's Office that the relevant amount was deducted for payment to this Court in that case but was inadvertently paid to the Michigan Supreme Court. Appellant is not required to pay an initial partial fee. MCL 600.2963(7). However, for this appeal to be filed, **appellant shall submit a copy of this order and refile the pleadings within 21 days of the certification of this order.** By doing this, appellant 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 appellant pays the entire outstanding balance due. MCL 600.2963(8). Failure to comply with this order shall result in the appeal not being filed in this Court and appellant not being responsible for paying the filing fee. If appellant 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 appellant's account until the payments equal the balance due of \$375. This amount shall then be remitted to this Court. The Clerk of this Court shall furnish two copies of this order to appellant and return appellant's pleadings with this order.



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

JUN 02 2016

Date


Chief Clerk