

Court of Appeals, State of Michigan

ORDER

Gamal Ali Hilton v Chippewa Correctional Facility Warden

Docket No. **333605**

LC No. **16-014165-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. Also, while plaintiff owes outstanding fees to this Court for prior cases filed while a prisoner, MCL 600.2963(8) cannot constitutionally be applied to bar this habeas corpus action where it appears manifest he is unable to pay the total amount of those outstanding fees. *Smith v Bennett*, 365 US 708; 81 S Ct 895; 6 L Ed 2d 39 (1961).


Within 21 days of the certification of this order, plaintiff shall pay to the Clerk of the Court the initial partial filing fee of \$3 (which he appears able to pay), shall submit a copy of this order with the payment, **and shall refile the pleadings which are being returned with this order.** If plaintiff timely files the partial fee and refiles the pleadings, plaintiff 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 original complaint not being filed in this Court and plaintiff not being responsible for paying the filing fee or the electronic filing system fee. If plaintiff timely files the partial fee and 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 \$397 for the \$400 total of the \$375 filing fee and the \$25 electronic filing system fee. The \$25 electronic filing system fee applies to the filing of a civil action in this Court even if it is not filed electronically. MCL 600.1986(2). The \$400 total amount shall then be remitted to this Court. The Clerk of this Court shall furnish two copies of this order to plaintiff and return plaintiff's pleadings with this order.



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

JUL 08 2016

Date


Chief Clerk