

# Court of Appeals, State of Michigan

## ORDER

**Darren Johnson v E C Brooks Correctional Facility Warden**

Docket No. **338678**

LC No. **00-000000**

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

Plaintiff's correspondence received on June 29, 2017 is treated as a motion for reconsideration of this Court's June 16, 2017 order, and the motion is DENIED. *Smith v Bennett*, 365 US 708; 81 S Ct 895; 6 L Ed 2d 39 (1961), held that prisoners seeking state habeas corpus relief could not be barred from pursuing such relief based on inability to pay a \$4 filing fee. That holding is inapplicable to the June 16, 2017 order which does not require plaintiff to pay any initial fee. Rather, the order merely requires that, if plaintiff opted to refile his returned pleadings, he would be liable for eventual payment of the required fees from deductions from *future* deposits to his prisoner account. The Court also notes that, despite plaintiff referring to himself as a petitioner, he is properly designated a plaintiff based on his filing of the complaint for habeas corpus initiating this Court of Appeals file.

Under the circumstances, despite plaintiff having refiled his returned pleadings, it is unclear if he wishes to proceed with this case recognizing that he would be liable for eventual payment of the \$375 filing fee and \$25 electronic filing system fee, for a total of \$400, from future deposits to his prisoner account. If plaintiff wishes to proceed with this case he shall file a signed statement with this Court within 21 days after the date of this order stating that he wishes to proceed with this case. If such a signed statement is filed the Clerk's Office shall notify the Department of Corrections to begin appropriate deductions from future deposits to plaintiff's prisoner account in accordance with the June 16, 2017 order. If plaintiff does not file such a signed statement plaintiff's complaint will not be filed in this Court and he will not be responsible for eventual payment of the indicated fees.



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

JUL 31 2017

Date

  
Chief Clerk