

Court of Appeals, State of Michigan

ORDER

State Treasurer v James Anthony Rataczak

Docket No. 340154

LC No. 17-003306-CZ

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. Contrary to appellant's indication, MCL 600.2963 applies to his filing of the present appeal which is "an appeal in a civil action." See MCL 600.2963(1); MCR 2.101(B). Appellant's conclusory argument does not establish that it is unconstitutional to apply MCL 600.2963 to this appeal, particularly where the initial partial filing fee required by this order for this appeal to proceed is far less than the current spendable balance shown in the prisoner account statement provided by appellant.

Within 21 days of the date of this order, appellant shall pay to the Clerk of the Court the initial partial filing fee of \$38, shall submit a copy of this order with the payment, **and shall refile the pleadings which are being returned with this order.** If appellant timely files the partial fee and refiles the pleadings, appellant 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 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 appellant's account until the payments equal the balance due of \$337. This amount shall then be remitted to this Court. Again, appellant may not file either a new civil appeal or an original action until appellant pays the entire outstanding balance due. MCL 600.2963(8). The Clerk of this Court shall furnish two copies of this order to appellant and return appellant's pleadings with this order.

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

NOV 09 2017

Date


Chief Clerk