

Court of Appeals, State of Michigan

ORDER

Martin Antonio Solomon v Charles Egeler Reception Warden

Docket No. 349111

LC No. 00-000000

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

Initially, MCL 600.2963(8) cannot constitutionally be applied to bar the present original complaint for habeas corpus based on the outstanding balance that plaintiff owes this Court in *In re Solomon*, Docket Number 297721, because it appears manifest from review of plaintiff's prisoner account statement that he cannot pay that outstanding balance. *Smith v Bennett*, 365 US 708; 81 S Ct 895; 6 L Ed 2d 39 (1961).

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. Plaintiff is not required to pay an initial partial fee. MCL 600.2963(7). However, for this complaint to be filed, **plaintiff shall submit a copy of this order and refile the pleadings within 21 days of the date of this order.** By doing this, plaintiff becomes responsible for paying the \$375 filing fee and the \$25 electronic filing system fee, for a total of \$400, and generally 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). The electronic filing system fee applies to the filing of a civil action even if it is not filed electronically. MCL 600.1986(2). Failure to comply with this order shall result in the complaint not being filed in this Court and plaintiff not being responsible for paying the filing fee. If plaintiff 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 plaintiff's account until the payments equal the balance due of \$400. This 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 12 2019

Date

  
Chief Clerk