Court of Appeals, State of Michigan

ORDER

Jerry Anderson II v Chippewa Correctional Facility Warden

Docket No. **352856**

LC No. **19-006351-AH**

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

Initially, MCL 600.2963(8) cannot constitutionally be applied to bar this appeal from a habeas corpus case based on the outstanding balance appellant owes this Court in *In re Anderson*, Docket Number 159145, where it appears manifest 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. 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 date of this order**. By doing this, appellant becomes responsible for paying the $375 filing fee 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 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. Again, appellant generally 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.

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

April 06, 2020
Date

Chief Clerk