

Chief Justice  
Maura D. Corrigan

Justices  
Michael F. Cavanagh  
Elizabeth A. Weaver  
Marilyn Kelly  
Clifford W. Taylor  
Robert P. Young, Jr.  
Stephen J. Markman

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# Opinion

FILED JUNE 4, 2002

T. PAUL KEENAN,

Plaintiff-Appellant,

v

No. 120277

DEPARTMENT OF CORRECTIONS,

Defendant-Appellee.

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## MEMORANDUM OPINION

Plaintiff is a prisoner who filed a complaint against defendant Department of Corrections in a circuit court. Summary disposition in favor of the defendant was granted by order of the court under MCR 2.116(C)(8). Plaintiff filed a claim of appeal with the Court of Appeals which that Court dismissed because plaintiff had not paid the remainder of a filing fee due in a prior case filed with the Court of Appeals. Plaintiff seeks leave to appeal. In lieu of granting leave to appeal, we affirm.

This case is governed by MCL 600.2963. Subsection 3 of that section requires a prisoner filing a civil action or appeal to pay a certain partial filing fee based on activity in the prisoner's institutional account for the preceding twelve months. Subsection 5 creates a procedure for the Department of Corrections to collect the remaining portion of the filing fee in monthly installments from the prisoner's account. Key to the instant dispute is subsection 8, which indicates:

A prisoner who has failed to pay outstanding fees and costs as required under this section shall not commence a new civil action or appeal until the outstanding fees and costs have been paid.

Plaintiff argues that he has not "failed" to pay outstanding fees because the remainder of the filing fee is being taken out of his account on a monthly basis under subsection 5. This argument is inconsistent with the plain wording of the statute. Subsection 8 conditions future appeals in civil actions on payment of "outstanding fees and costs" in prior actions. The term "outstanding fees" refers to the difference between the full filing fee and the partial filing fee set under subsection 3. Plaintiff concedes that he still owes a portion of the filing fee in the prior case. Accordingly, the Court of Appeals correctly dismissed his claim of appeal. In lieu of granting leave to appeal, we affirm the order of the Court of Appeals on this point. In all other respects, we deny the delayed application for leave

to appeal because we are not persuaded that the remaining questions should be reviewed by this Court.

**CORRIGAN, C.J., and CAVANAGH, WEAVER, KELLY, TAYLOR, YOUNG, and MARKMAN, JJ., concurred.**