

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

GUY J. CIARDELLI : CIVIL ACTION  
 :  
 v. :  
 :  
 H. LAFFERTY, et al. : NO. 98-5994

O R D E R

AND NOW, this day of December, 1998, upon consideration of the inmate trust fund account sheet which plaintiff submitted on November 24, 1998, and it appearing that said account sheet does not comply with the requirements of 28 U.S.C. § 1915,<sup>1</sup> it is hereby ORDERED that plaintiff shall comply with the following directives:

1. You need to state within twenty (20) days whether you would like to proceed with this case.

2. If you decide you want to go forward with this case, you will be required to pay the full \$150.00 filing fee even if you proceed in forma pauperis. To proceed in forma

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1. Pursuant to 28 U.S.C. § 1915, a prisoner bringing a civil action in forma pauperis must pay the full amount of the \$150 filing fee. 28 U.S.C. § 1915(b)(1). Furthermore, a prisoner seeking to proceed in forma pauperis must submit a certified copy of his inmate trust fund account statement for the 6-month period immediately preceding the filing of his complaint so that the Court can determine how the \$150 filing fee will be paid. 28 U.S.C. § 1915(a)(2). The prisoner must obtain this statement from the appropriate official of each prison at which he was or is confined. Id. The Court must then "assess and, when funds exist, collect, as a partial payment of any court fees required by law, an initial partial filing fee of 20 percent of the greater of-- (A) the average monthly deposits to the prisoner's account; or (B) the average monthly balance in the prisoner's account for the 6-month period immediately preceding the filing of the complaint . . . ." 28 U.S.C. § 1915(b)(1).

pauperis, you must obtain a copy of your inmate trust fund account sheet that is certified by the warden or financial officer of the prison in which you are incarcerated. The account sheet you submitted on November 24, 1998, is not certified and therefore is not adequate. Once you submit the certified copy of your account sheet, the Office of the Clerk of Court will examine your account and determine how much money will be withdrawn to pay the initial partial filing fee. Based on the account sheet you previously submitted, it appears that the Court will direct the warden or prison financial officer to monitor your account, and every time your account shows a balance of more than \$10.00, the warden or prison financial official will withdraw 20% of that balance.<sup>2</sup> This money will be sent to the Clerk of Court and will be credited to the \$150.00 filing fee. Once the filing fee is paid, the warden or prison financial officer will stop withdrawing from your account, assuming you don't enter into other arrangements like this one.

3. If you decide to proceed, you will be obligated to pay the \$150.00 filing fee regardless of the outcome of your case. Therefore, even if your case is dismissed as frivolous or for any other reason, the warden or prison financial officer will

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2. After the initial partial filing fee is paid, the prisoner is "required to make monthly payments of 20 percent of the preceding month's income credited to the prisoner's account. The agency having custody of the prisoner shall forward payments from the prisoner's account to the clerk of the court each time the amount in the account exceeds \$10 until the filing fees are paid." 28 U.S.C. § 1915(b)(2).

continue to withdraw money from your account until the \$150.00 filing fee is paid.<sup>3</sup>

**BY THE COURT:**

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**JAMES MCGIRR KELLY, Sr. J.**

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3. Even if the full filing fee, or any part of it, has been paid, the Court must dismiss the case if it finds that the action is : (1) frivolous or malicious; (2) fails to state a claim upon which relief may be granted; or (3) seeks monetary relief against a defendant who is immune from such relief. 28 U.S.C. § 1915(e) (2)(B).

