

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS

IN THE MATTER OF
PRISONER *IN FORMA PAUPERIS*
PROCEEDINGS

§
§
§

Entered January 21, 1997
General Order No. 1997-2

ORDER

The statute governing *in forma pauperis* lawsuits is 28 U.S.C. § 1915. This statute requires that prisoners filing *in forma pauperis* lawsuits are required to pay the full amount of the filing fee. However, the lawsuit may be begun without prepayment of the full fee.

It is ORDERED, effective January 21, 1997, that the following rules be adopted with respect to applications to proceed *in forma pauperis* filed in lawsuits governed by the Prisoner Litigation Reform Act of 1996:

1. The Clerk of the Court shall file on the regular docket any lawsuit submitted by a plaintiff or plaintiffs which is accompanied by an application to proceed *in forma pauperis* signed under penalty of perjury.
2. The *in forma pauperis* application shall contain the average monthly balance and average monthly deposits in the plaintiff's inmate trust account for the six month period immediately preceding the filing of the complaint, certified by an official of the institution. If the plaintiff has been incarcerated less than six months, the average monthly balance and average monthly deposits during the period of incarceration shall be stated.
3. When a lawsuit is filed on the regular docket, the Clerk will assign the case to a district judge, who may refer the case to a magistrate judge.
4. The Court shall assess the initial partial filing fee in accordance with 28 U.S.C. § 1915(b)(1).
5. After the payment of this initial fee, the inmate accounting department shall deduct 20 percent of each deposit made to the plaintiff's trust account and, in accordance with 28 U.S.C. § 1915, send it to the Court on a regular basis until the full fee is paid, or until further order.
6. In conformity with 28 U.S.C. § 1915A, the Court shall, as soon as practicable, determine if the lawsuit is frivolous, malicious, fails to state a claim upon which relief may be granted, or seeks monetary relief from a defendant who is immune from such relief.

7. The United States Marshal shall serve summons on the defendants in a proceeding under 28 U.S.C. SS 1915 only when so ordered by a district or magistrate judge. The issuance of service is not required at the time a plaintiff is allowed to proceed without prepayment of fees; instead, the judicial officer, in his or her discretion, shall determine when or if service is appropriate.

8. Upon the resolution of a lawsuit proceeding under 28 U.S.C. § 1915, the judicial officer may, in @s or her discretion, waive any remaining fees to be paid. In the event that the prisoner is awarded monetary damages as a result of the lawsuit, all unpaid fees must be satisfied out of the award.

9. This order supersedes any other General Order in conflict with the provisions of this order.

SIGNED this 21st day of January, 1997, on behalf of the Court.

 /s\
George P. Kazen
Chief United States Judge