

UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND

HECTOR JAIMAN

v.

CORRECTIONAL OFFICER
NYSTRUM, et al.

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C.A. No. 16-075ML

MEMORANDUM AND ORDER

This matter is before the Court on Plaintiff Hector Jaiman’s Motion to Proceed *In Forma Pauperis* (“IFP”) pursuant to 28 U.S.C. § 1915. (Document No. 2). The Motion has been referred to me for determination. 28 U.S.C. § 636(b)(1)(A); LR Cv 72(a). The Court ordered Plaintiff to submit a certification of his prison trust account statement, which he did on March 11, 2016. (Document No. 4-1). Upon review of the documents filed, Plaintiff’s Motion to Proceed IFP (Document No. 2) is GRANTED.

Because Plaintiff is a prisoner, he is still required to pay the statutory filing fee of \$350.00 for this action. Pursuant to the Prison Litigation Reform Act, 28 U.S.C. § 1915(b)(1), a prisoner who is granted leave to proceed IFP must pay, as an initial partial filing fee, 20% of the greater of (A) the average monthly deposits to the prisoner’s account; or (B) the average monthly balance in his account for the six-month period immediately preceding filing of the complaint. After paying the initial partial filing fee, the prisoner shall be required to make monthly payments of 20% of the preceding month’s income credited to his account. 28 U.S.C. § 1915(b)(2). The agency having custody of the prisoner shall forward such subsequent payments from the prisoner’s account to the Clerk of the Court each time the amount exceeds \$10.00, until the filing fee is paid in full. Id.

The monthly deposits to Plaintiff's account during the six-month period prior to the filing of the Complaint averaged \$84.83. His average monthly balance during the relevant time period was \$24.38. Accordingly, after a review of Plaintiff's Affidavit filed in support of his Motion to Proceed IFP, Plaintiff shall be assessed an initial partial filing fee payment of \$16.96 ($\$84.83 \times 20\% = \16.96). The Rhode Island Adult Correctional Institutions ("ACI") is hereby ordered to forward an initial payment on Plaintiff's behalf to the Clerk of the Court for the District of Rhode Island. Provided Plaintiff's prison trust account equals or exceeds the initial fees assessed, the initial fee shall be forwarded to the Clerk of the Court within twenty days of this Order. If Plaintiff lacks sufficient funds to pay the fee, the initial payment shall be forwarded by the ACI as soon as the balance in Plaintiff's prison trust account equals or exceeds \$16.96. Furthermore, the ACI shall forward to the Clerk of the Court subsequent monthly payments of 20% of Plaintiff's preceding month's income each time Plaintiff's account balance exceeds \$10.00. Such fees shall be forwarded until the filing fee of \$350.00 has been paid in full.

Having granted IFP status, the Court notes its obligation to review the Complaint under 28 U.S.C. § 1915A. Although the Court has preliminarily reviewed the Complaint under 28 U.S.C. § 1915A, it has done so construing the Complaint liberally and giving Plaintiff every benefit of the doubt due to his pro se status. Without passing on the merits of the claim, Plaintiff's ultimate chance of prevailing on the merits of any defenses or immunities, the Court has determined that Plaintiff's Eighth Amendment claims against Defendants may proceed past the screening stage to service on Defendants.

SO ORDERED

/s/ Lincoln D. Almond
LINCOLN D. ALMOND
United States Magistrate Judge
March 22, 2016