

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 96-30922  
Conference Calendar

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JOHNNY WINSTON,

Plaintiff-Appellant,

versus

BOB CARTER ET AL.,

Defendants-Appellees.

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Appeal from the United States District Court  
for the Western District of Louisiana  
USDC No. 96-CV-1745  
- - - - -

April 18, 1997

Before REAVLEY, DAVIS, and BARKSDALE, Circuit Judges.

PER CURIAM:\*

The motion of Louisiana prisoner, Johnny Winston, for leave to proceed in forma pauperis (IFP) on appeal is GRANTED.

Pursuant to the Prison Litigation Reform Act of 1995 (PLRA), we assess an initial partial filing fee against Winston of \$0.70.

See 28 U.S.C. § 1915(b)(1). Following payment of the initial partial filing fee, the remainder will be deducted from Winston's prison trust-fund account until the entire filing fee is paid.

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\* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

§ 1915(b)(2).

IT IS ORDERED that Winston pay the appropriate filing fee to the Clerk of the District Court for the Western District of Louisiana. IT IS FURTHER ORDERED that the agency having custody of Winston forward the initial partial filing fee to the Clerk. Thereafter, the agency shall forward, in accordance with § 1915(b)(2), to the Clerk of the District Court for the Western District of Louisiana monthly payments of 20 percent of the preceding month's income each time the amount in Winston's account exceeds \$10, until the appellate filing fee of \$105 is paid.

We have reviewed Winston's briefs and the record and we hold for essentially the reasons stated by the magistrate judge and adopted by the district court that Winston's suit was properly dismissed pursuant to 28 U.S.C. § 1915(g). Winston v. Carter, No. 96-1745-M (W.D. La. Jul. 26 and Aug. 19, 1996). Winston's appeal is without arguable merit and is DISMISSED as frivolous. See Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983).

APPEAL DISMISSED. 5th Cir. R. 42.2.