

**IN THE UNITED STATES COURT OF APPEALS**  
**FOR THE FIFTH CIRCUIT**

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No. 96-40696  
(Summary Calendar)

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EDWARD RHOME,

Plaintiff-Appellant,

versus

UNKNOWN KRUIZE, Security Officer, Coffield Unit;  
UNKNOWN SELF, Security Officer, Coffield Unit,

Defendants-Appellees.

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Appeal from the United States District Court  
for the Eastern District of Texas  
(6:95-CV-391)

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June 4, 1997

Before DAVIS, EMILIO M. GARZA, and STEWART, Circuit Judges.

PER CURIAM:\*

Edward Rhome, Texas prisoner #63852, moves this court for leave to appeal *in forma pauperis* (IFP) under the Prison Litigation Reform Act of 1995 (PLRA) in his appeal from the district court's dismissal of his civil rights suit alleging a failure-to-protect claim. Rhome's motion for leave to proceed IFP is GRANTED.

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\*Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

The PLRA requires a prisoner appealing IFP in a civil action to pay the full amount of the filing fee, \$105. As Rhome does not have funds for immediate payment of this fee, he is assessed an initial fee of \$3.37 pursuant to 28 U.S.C. § 1915 (b)(1). Following payment of the partial filing fee, funds shall be deducted from Rhome's prisoner account until the full filing fee is paid. Id.

IT IS ORDERED that Rhome pay the appropriate filing fee to the Clerk of the District Court for the Eastern District of Texas. IT IS FURTHER ORDERED that the agency having custody of Rhome's inmate account shall forward payments from his account to the Clerk of the District Court for the Eastern District of Texas each time the amount in the account exceeds \$10 until the filing fees are paid in accordance with 28 U.S.C. § 1915 (b)(2).

Rhome argues that the district court erred in granting summary judgment for the defendants. Rhome's argument is misplaced because the district court did not grant summary judgment for the defendants. The district court dismissed Rhome's claims following an evidentiary hearing. *See Flowers v. Phelps*, 956 F.2d 488 (5th Cir.), *modification on other grounds*, 964 F.2d 400 (1992). Accordingly, we affirm the judgment of the district court for substantially the same reasons adopted by the district court and set forth in the magistrate judge's report. *Rhome v. Kruize*, No. 6:95-CV-391 (E.D. Tex. July 3, 1996).

IFP GRANTED; JUDGMENT AFFIRMED.