

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

JEROME WILLIAM WAGNER,

Plaintiff,

v.

Case No: 2:17-cv-723-FtM-38MRM

SECRETARY FOR DCF, BRIAN L.
MASONY, DONALD SAWYER and
JANET DOTTERWEICH,

Defendants.

_____ /

OPINION AND ORDER¹

This matter comes before the Court upon periodic review of the file. Plaintiff is a civil detainee at the Florida Civil Commitment Center in Arcadia, Florida. Plaintiff initiated this case by filing a civil rights complaint on December 29, 2017. (Doc. 1). Plaintiff filed a Motion to Proceed *In Forma Pauperis* (IFP) (Doc. 5) on February 2, 2018. The Court struck Plaintiff's Motion to Proceed IFP because Plaintiff failed to sign the affidavit and he did not attach a copy of his resident account for the six months preceding the filing of his Complaint. (Doc. 6). Under the Federal Rules of Civil Procedure, "[e]very pleading, written motion, and other paper must be signed by at least one attorney of record in the

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attorney's name – or by a party personally if the party is unrepresented.” [Fed. R. Civ. P. 11\(a\)](#).

In the Order striking Plaintiff's IFP request, the Court informed Plaintiff — pursuant to Fed. R. Civ. P. 11 and M.D. Fla. Rule 1.03(e) — he must pay the \$400.00 filing fee or file a signed Affidavit of Indigency accompanied by a copy of his resident account statement for the period June 29, 2017 through December 29, 2017, within twenty-one days of the Order. Plaintiff was cautioned that failure to comply would result in the dismissal of his case. Plaintiff has failed to comply with the Court's Order and the time to do so has now expired.

Accordingly, it is now

ORDERED:

1. Jerome Wagner's case is hereby **DISMISSED without prejudice**.
2. Plaintiff may refile his complaint, but he must do so under a new case number.
3. The Clerk of Court is directed to enter judgment accordingly, terminate any pending motions and deadlines, and close the file.

DONE and **ORDERED** in Fort Myers, Florida this 28th day of September 2018.


SHERI POLSTER CHAPPELL
UNITED STATES DISTRICT JUDGE

Copies:
All Parties of Record
SA: FTMP-2