

MICHIGAN SUPREME COURT

James Byars v. Attorney Grievance Commission

No. SC: 161191; AGC: 2065-13, Michigan Supreme Court (March 31, 2020)

SUMMARY

The Michigan Supreme Court denied a prisoner's motion to waive filing fees, holding that MCL 600.2963 requires a prisoner pursuing a civil action to be liable for filing fees. The court ordered an initial partial payment of \$24 and monthly deductions of 50% of deposits to the prisoner's account until the \$400 balance is paid, with dismissal of the complaint for non-compliance. This order addresses prisoner litigation filing fees, partial payment plans, and the prohibition on new filings until the fee is paid in full under Michigan law.

CASE DETAILS

COURT	Michigan Supreme Court
WRITING FOR THE COURT	Bridget M. McCormack; David F. Viviano; Stephen J. Markman; Brian K. Zahra; Richard H. Bernstein; Elizabeth T. Clement; Megan K. Cavanagh
JURISDICTION	Michigan
DECIDED	March 31, 2020
DOCKET	SC: 161191; AGC: 2065-13
DISPOSITION	other
PROCEDURAL POSTURE	Motion to waive fees in original action.
PRECEDENTIAL VALUE	Published
PARTIES	James Byars v. Attorney Grievance Commission

TOPICS

- civil procedure
- statutory interpretation
- costs
- waiver

PRACTICE AREAS

- Civil Procedure

QUESTIONS PRESENTED

1. Whether the court should waive filing fees for a prisoner plaintiff.

HOLDINGS

1. The motion to waive fees is denied because MCL 600.2963 requires a prisoner pursuing a civil action to be liable for filing fees.

KEY QUOTATIONS

“MCL 600.2963 requires that a prisoner pursuing a civil action be liable for filing fees.”

FACTUAL BACKGROUND

Plaintiff James Byars, a prisoner, filed a civil action against the Attorney Grievance Commission in the Michigan Supreme Court and moved to waive the filing fees.

PROCEDURAL HISTORY

Plaintiff James Byars filed a complaint against the Attorney Grievance Commission and moved to waive filing fees.

DISPOSITION

other

REMAND INSTRUCTIONS

Within 21 days, plaintiff shall pay \$24 initial partial filing fee, submit copy of order, and refile pleadings. Failure results in dismissal. Monthly payments from prison account until balance paid.

OPINION

PER CURIAM.

Order Michigan Supreme Court Lansing, Michigan March 31, 2020 Bridget M. McCormack, Chief Justice David F. Viviano, Chief Justice Pro Tem 161191 (4) Stephen J. Markman Brian K. Zahra Richard H. Bernstein Elizabeth T. Clement JAMES BYARS, Megan K. Cavanagh, Justices Plaintiff, v SC: 161191 AGC: 2065-13 ATTORNEY GRIEVANCE COMMISSION, Defendant.
_____/ On order of the Chief Justice, the motion to waive fees is considered and it is DENIED because MCL 600.2963 requires that a prisoner pursuing a civil action be liable for filing fees.

The filing fees include a \$375.00 entry fee and a \$25.00 fee for commencing an original action, MCL 600.1986, for a total of \$400.00. Within 21 days of the date of this order, plaintiff shall pay to the Clerk of the Court the initial partial filing fee of \$24.00; submit a copy of this order; and refile the copy of the pleadings returned with this order. Failure to comply with this order shall result in the dismissal of this complaint.

If plaintiff timely files the partial fee and refiles the pleadings, monthly payments shall be made to the Department of Corrections in the amount of 50 percent of the deposits made to plaintiff's account until the payments equal the balance due of \$376.00. This amount shall then be remitted to this Court. Pursuant to MCL 600.2963(8) plaintiff shall not file a new civil action or appeal in this Court until the entry fee in this case is paid in full.

The Clerk of the Court shall furnish two copies of this order to plaintiff and return a copy of plaintiff's pleadings with this order. I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court. Clerk