

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 97-40105
Summary Calendar

ROBERT LAWRENCE MORGAN,

Plaintiff-Appellant,

versus

DAVID HARO, CO III, Michael Unit; UNIDENTIFIED STEWART,
CO III, Michael Unit; UNIDENTIFIED BAKER, Sergeant,
Michael Unit,

Defendants-Appellees.

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Appeal from the United States District Court
for the Eastern District of Texas
- - - - -

March 31, 1997

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

PER CURIAM:

The magistrate judge declined to rule on a motion for leave to proceed *in forma pauperis* (IFP) on appeal filed by Texas prisoner Robert Lawrence Morgan, #452774. In accordance with the Prison Litigation Reform Act (PLRA):

(1) If a prisoner brings a civil action or files an appeal in forma pauperis, the prisoner shall be required to pay the full amount of a filing fee. The court shall assess and, when funds exist, collect, as a partial payment of any court fees required by law, an initial partial filing fee of 20 percent of the greater of --

(A) the average monthly deposits to the prisoner's account; or

(B) the average monthly balance in the prisoner's account for the 6-month period immediately preceding the filing of the complaint or notice of appeal.

(2) After payment of the initial partial filing fee, the prisoner shall be required to make monthly payments of 20 percent of the preceding month's income credited to the prisoner's account.

28 U.S.C. § 1915(b). A prisoner who seeks to proceed IFP on appeal must obtain leave to so proceed despite proceeding IFP in the district court. *Jackson v. Stinnett*, 102 F.3d 132, 136 (5th Cir. 1996).

We hold that the financial screening and assessment procedures of the PLRA regarding appellate filing fees are to be conducted by the district courts. When a district court grants a prisoner leave to proceed IFP on appeal, the district court must assess the initial partial filing fee and order payment of the remainder of the filing fee as directed by the PLRA.

Accordingly, the case is REMANDED to the district court so that the district court may rule on the IFP motion and, if granted, order the payment of the appellate filing fee pursuant to § 1915(b). After this determination is made, the district court shall return the case to this court for further proceedings.

REMANDED.