

Case No. 26-3327

**UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT**

ORDER

ELHADJ ALPHA MAHMOUD SQUARE

Plaintiff - Appellant

v.

CITY OF AKRON, OH; OFFICER DIONTA MITCHELL, Badge #1605; OFFICER PATRICK MOORE, Badge #1594; PORTAGE COUNTY, OH; DEPUTY COLEMAN THOMES, Badge #149; PORTAGE COUNTY JAIL STAFF JOHN DOES, 1-12

Defendants - Appellees

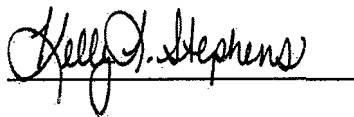
Appellant having previously been advised that failure to satisfy certain specified obligations would result in dismissal of the case for want of prosecution and it appearing that the appellant has failed to satisfy the following obligation(s):

The proper fee was not paid by May 15, 2026.

It is therefore **ORDERED** that this cause be, and it hereby is, dismissed for want of prosecution.

**ENTERED PURSUANT TO RULE 45(a),
RULES OF THE SIXTH CIRCUIT**
Kelly L. Stephens, Clerk

Issued: June 05, 2026

A handwritten signature in cursive script, reading "Kelly L. Stephens", is written over a horizontal line.

PEARSON, J.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

ELHADJ ALPHA MAHMOUD SOUARE,	)	
	)	CASE NO. 5:26CV0154
Plaintiff,	)	
	)	JUDGE BENITA Y. PEARSON
v.	)	
	)	
CITY OF AKRON, <i>et al.</i> ,	)	<u>MEMORANDUM OF OPINION</u>
	)	<u>AND ORDER</u>
Defendants.	)	[Resolving ECF Nos. <u>2</u> and <u>3</u>]

This is another civil action filed by *Pro Se* Plaintiff Elhadj Alpha Mahmoud Souare in which he seeks to proceed *in forma pauperis* ("IFP"). For the following reasons, his Application to Proceed IFP (ECF No. 2) is denied, and this action is dismissed.

Pursuant to 28 U.S.C. § 1915(a)(1), a court "may authorize the commencement, prosecution or defense of any suit, action or proceeding, civil or criminal, or appeal therein, without prepayment of fees or security therefor, by a person who submits an affidavit that includes a statement of all assets such [person] possesses that the person is unable to pay such fees or give security therefor." But proceeding IFP in federal court is a privilege and not a right, and permission to do so is committed to the sound discretion of the Court. Wilson v. Yaklich, 148 F.3d 596, 603 (6th Cir. 1998); Weaver v. Toombs, 948 F.2d 1004, 1008 (6th Cir. 1991), *superseded by statute on other grounds as discussed in In re Prison Litig. Reform Act*, 105 F.3d 1131, 1138 (6th Cir. 1997)); Marshall v. Beshear, No. 3:10CV-663-R, 2010 WL 5092713, at *3 (W.D. Ky. Dec. 7, 2010). An application is properly denied when the litigant fails to provide

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information concerning his expenses and financial obligations, as required, such that the court may make a determination as to her ability to pay the filing fee. Flippin v. Coburn, 107 Fed.Appx. 520, 521 (6th Cir. 2004). Furthermore, although pauper status does not require absolute destitution, see Foster v. Cuyahoga Cty. Dep't of Health & Human Serv., 21 Fed.Appx. 239, 240 (6th Cir. 2001), a plaintiff is required to demonstrate via affidavit that "because of his poverty," he cannot pay the fee and continue to provide for the necessities of life. Adkins v. E.I. DuPont de Nemours & Co., 335 U.S. 331, 339 (1948); see Givens v. Shadyside Police Dept., No. 2:22-cv-4268, 2023 WL 3089066, at *5 (S.D. Ohio April 26, 2023) (a litigant has an obligation of truthfulness in his filings, as well as a burden to demonstrate that he should be granted IFP status), report and recommendation adopted, No. 2:22-cv-04268, 2023 WL 3868394 (S.D. Ohio June 7, 2023).

The Court does not find that Plaintiff has provided valid and sufficient information regarding his financial circumstances to justify granting him leave to proceed IFP. Plaintiff did not complete and submit the Application to Proceed in District Court Without Prepaying Fees or Costs (Long Form) (AO 239 (Rev. 01/15)) used in this district, but instead submitted another, more limited short form application, which does not provide sufficient information as to all categories of his financial situation necessary for the Court to make a determination as to his ability to pay the filing fee.

In addition, Plaintiff's Application (ECF No. 2) is implausible on its face. It indicates Plaintiff has no financial resources of any kind, but as another district judge of this court recently held in denying him pauper status, see Souare v. Sickels, No. 5: 25CV2674, slip op. (N.D. Ohio

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Jan. 8, 2026), Plaintiff has previously paid the \$405 filing fee in at least nine (9) other civil actions filed in this district. See Souare v. Akron Children's Hosp., No. 5:25CV1434 (N.D. Ohio filed July 9, 2025); Souare v. Summit Cnty., Ohio, No. 5:25CV1209 (N.D. Ohio filed June 9, 2025); Souare v. Hill, No. 5:25CV1152 (N.D. Ohio filed June 3, 2025); Souare v. Hill, No. 5:25CV0698 (N.D. Ohio filed April 8, 2025); Souare v. Goodman Servs., LLC, No. 5:25CV0696 (N.D. Ohio filed April 8, 2025); Souare v. Akron Metro. Housing Auth., No. 5:25CV0695 (N.D. Ohio filed April 8, 2025); Souare v. Dept. of Dev. Disabilities, No. 5:25CV0694 (N.D. Ohio filed April 8, 2025); Souare v. Ohio BMV, No. 5:25CV0564 (N.D. Ohio filed March 24, 2025); Souare v. State of Ohio Child Support, No. 5:25CV0476 (N.D. Ohio filed March 11, 2025). This suggests that Plaintiff does, in fact, have the means to pay the filing fees, and that this is a situation in which he must "weigh the financial constraints posed by pursuing [his] complaint against the merits of [his] claims." Behmlander v. Comm'r of Soc. Sec., No. 12-cv-14424, 2012 WL 5457466, at *2 (E.D. Mich. Oct. 16, 2012). Plaintiff does not provide any explanation as to how he was able to pay the filing fee in nine (9) other cases, but is unable to pay the fee in the case at bar.

Accordingly, Plaintiff's Application to Proceed IFP (ECF No. 2) is denied. Plaintiff's Motion to Note Widespread Conditions (ECF No. 3) is denied as moot.

This action is dismissed without prejudice. Plaintiff may move to reopen this case within thirty (30) days of the date of this Order by paying the full filing fee of \$405 and filing a contemporaneous motion to reopen. The Court will not accept any document for filing in the present case, including a motion to reopen or a motion for reconsideration, unless the filing fee is

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first paid in its entirety. The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that an appeal from this decision could not be taken in good faith.

IT IS SO ORDERED.

April 1, 2026
Date

/s/ Benita Y. Pearson
Benita Y. Pearson
United States District Judge

**U.S. District Court
NORTHERN DISTRICT OF OHIO (Akron)
CIVIL DOCKET FOR CASE #: 5:26-cv-00154-BYP**

Souare v. City of Akron, et al.
Assigned to: Judge Benita Y. Pearson
Case in other court: 6th Circuit, 26-03327
Cause: 42:1983 Civil Rights Act

Date Filed: 01/21/2026
Date Terminated: 04/01/2026
Jury Demand: Plaintiff
Nature of Suit: 440 Civil Rights: Other
Jurisdiction: Federal Question

Plaintiff

Elhadj Alpha Mahmoud Souare

represented by **Elhadj Alpha Mahmoud Souare**
P.O. Box 7024
Akron, OH 44306
234-303-9210
PRO SE

V.

Defendant

City of Akron

Defendant

Officer Dionta Mitchell
Badge #1605

Defendant

Officer Patrick Moore
Badge #1594

Defendant

Portage County

Defendant

Deputy Coleman Thomes
Badge #149

Defendant

Portage County Jail Staff John Does
1-12

Date Filed	#	Docket Text
01/21/2026	<u>1</u>	Complaint for violation of civil rights with jury demand against City of Akron, Dionta Mitchell, Patrick Moore, Portage County, Portage County Jail Staff John Does 1-12, Coleman Thomes. Filing fee not paid, IFP. Filed by Elhadj Alpha Mahmoud Souare. (Attachments: # <u>1</u> Civil Cover Sheet, # <u>2</u> Civil Cover Sheet Instructions) (C.K.) (Entered: 01/21/2026)

01/21/2026	<u>2</u>	Motion to proceed in forma pauperis filed by Plaintiff Elhadj Alpha Mahmoud Souare. (Attachments: # <u>1</u> Letter from Department of Disabilities)(C,K) (Entered: 01/21/2026)
01/21/2026	<u>3</u>	Motion to note widespread conditions filed by Plaintiff Elhadj Alpha Mahmoud Souare. (C,K) (Entered: 01/21/2026)
01/21/2026		Judge Benita Y. Pearson assigned to case. (C,K) (Entered: 01/21/2026)
01/21/2026		Random Assignment of Magistrate Judge pursuant to Local Rule 3.1. In the event of a referral, case will be assigned to Magistrate Judge Amanda M. Knapp. (C,K) (Entered: 01/21/2026)
04/01/2026	<u>4</u>	Memorandum of Opinion and Order For the reasons set forth herein, Plaintiff's Application to Proceed IFP (ECF No. <u>2</u>) is denied. Plaintiff's Motion to Note Widespread Conditions (ECF No. <u>3</u>) is denied as moot. This action is dismissed without prejudice. Plaintiff may move to reopen this case within 30 days of the date of this Order by paying the full filing fee of \$405 and filing a contemporaneous motion to reopen. The Court will not accept any document for filing in the present case, including a motion to reopen or a motion for reconsideration, unless the filing fee is first paid in its entirety. The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that an appeal from this decision could not be taken in good faith. Judge Benita Y. Pearson on 4/1/2026. (JLG) (Entered: 04/01/2026)
04/01/2026	<u>5</u>	Judgment Entry Having filed its Memorandum of Opinion and Order, the Court hereby dismisses this action without prejudice. Furthermore, the Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that an appeal from this decision could not be taken in good faith. Judge Benita Y. Pearson on 4/1/2026. (JLG) (Entered: 04/01/2026)
04/01/2026		Copy of <u>4</u> Memorandum of Opinion and Order and <u>5</u> Judgment Entry mailed to Plaintiff Elhadj Alpha Mahmoud Souare, P.O. Box 7024, Akron, OH 44306 on 4/1/2026. Related document(s) <u>4</u> , <u>5</u> . (JLG) (Entered: 04/01/2026)
04/15/2026	<u>6</u>	NOTICE OF APPEAL to the Sixth Circuit Court of Appeals from the <u>5</u> Judgment Entry, filed by Elhadj Alpha Mahmoud Souare. Filing fee not paid. (E,CK) (Entered: 04/15/2026)
04/15/2026		Acknowledgment from the USCA for Sixth Circuit of receipt of <u>6</u> Notice of Appeal (USCA# 26-3327). Date filed in USCA 4/15/26. (H,SP) (Entered: 04/15/2026)
06/05/2026	<u>7</u>	True copy of order from the USCA for the Sixth Circuit: Dismissing the appeal for want of prosecution re <u>6</u> . The proper fee was not paid by 5/15/26 (USCA# 26-3327). Date issued by USCA 6/5/2026. (H,SP) (Entered: 06/05/2026)