

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

WILLIAM B. JOLLEY,

Plaintiff,

vs.

UNITED STATES OF AMERICA and

BEN CARSON,

Defendants.

No. 1:20-cv-3216-JMS-MJD

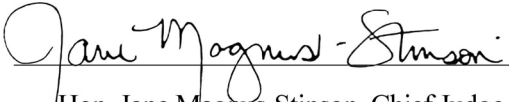
ORDER

Pro se Plaintiff William B. Jolley files this action against the United States and Ben Carson, Secretary of the Department of Housing and Urban Development ("HUD"). [[Filing No. 1.](#)] Liberally construed, the Complaint alleges, in relevant part, that Mr. Jolley was denied employment with HUD because of his hearing disability, his "advanced age," and because he has successfully litigated employment discrimination claims to protect his and other veterans' rights under the Uniformed Service Employment and Reemployment Act ("USERRA") and other laws. [[Filing No. 1 at 2-3](#); [Filing No. 1 at 5.](#)] He also asserts that the portions of USERRA that apply to veterans employed by the federal government are unconstitutional. [[Filing No. 1 at 4-5.](#)] Mr. Jolley states that is a veteran of the United States Air Force and that he is now deaf as a result of his military service. [[Filing No. 1 at 2](#); [Filing No. 2 at 2.](#)]

Mr. Jolley has filed a "Motion to Proceed as a Veteran Without Payment of Court Fees and Charges." [[Filing No. 2.](#)] In the motion, he asks the Court to order that he be allowed to proceed with this action without payment of fees and charges under USERRA, 38 U.S.C. § 4323(h)(1), which provides: "No fees or court costs may be charged or taxed against any person claiming rights under this chapter." "In light of the plain language of 38 U.S.C. § 4323(h)(1) and Congress's

intent, in USERRA and elsewhere, to lessen the costs of litigation for veterans, [the Seventh Circuit has held] that 38 U.S.C. § 4323(h)(1) permits a USERRA litigant to initiate suit without prepaying the filing fee." *Davis v. Advocate Health Ctr. Patient Care Exp.*, 523 F.3d 681, 685 (7th Cir. 2008) (refunding entire appellate filing fee); *see also Palumbo v. Devry Univ.*, 964 F. Supp. 2d 935, 937 (N.D. Ill. 2013) (granting plaintiff's motion to waive the filing fee under to 38 U.S.C. § 4323(h)(1)); *MacIver v. City of Lakeland, Fla.*, 2013 WL 3818111, at *1 (M.D. Fla. July 17, 2013) (allowing USERRA plaintiff to proceed "without paying a filing fee"). Accordingly, because the Court finds that (1) Mr. Jolley is a veteran and (2) he asserts claims under USERRA, Mr. Jolley's Motion, [2], is **GRANTED** and he may proceed without payment of the filing fee.

Date: 12/21/2020


Hon. Jane Magnus-Stinson, Chief Judge
United States District Court
Southern District of Indiana

Distribution via U.S. Mail to:

William B. Jolley
73 Bartram Trail
Brunswick, GA 31523