

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

RONALD MURRAY,

Plaintiff,

vs.

CIVIL ACTION
No. 04-3443-GTV

ARTHER DEPREE, et al.,

Defendants.

ORDER

This matter is before the court on a civil rights action filed pursuant to 42 U.S.C. 1983 by a prisoner in state custody. Plaintiff proceeds pro se and submitted the initial partial filing fee. The court grants leave to proceed in forma pauperis.¹

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Plaintiff is advised that he remains obligated to pay the balance of the statutory filing fee of \$150.00 in this action. The Finance Office of the facility where he is incarcerated will be directed by a copy of this order to collect from plaintiff's account and pay to the clerk of the court twenty percent (20%) of the prior month's income each time the amount in plaintiff's account exceeds ten dollars (\$10.00) until the filing fee has been paid in full. Plaintiff is directed to cooperate fully with his custodian in authorizing disbursements to satisfy the filing fee, including but not limited to providing any written authorization required by the

Plaintiff names three individuals as defendants, and he alleges they conspired with police officers to deprive him of his constitutional rights. He claims the three deliberately fabricated evidence and testified against him during the criminal proceedings that resulted in his current confinement. He seeks damages.

It is well-established that a witness enjoys absolute immunity from liability for providing testimony, even if the plaintiff alleges the testimony was perjured. Briscoe v. LaHue, 460 U.S. 325, 345-46 (1983). In the Tenth Circuit, the holding in Briscoe has been extended to claims of conspiracy involving perjured testimony. Miller v. Glanz, 948 F.2d 1562 (10th Cir. 1991). Accordingly, the court concludes that the claims against the defendants fail as a matter of law, and this matter must be dismissed.

IT IS, THEREFORE, BY THE COURT ORDERED plaintiff's motion for leave to proceed in forma pauperis (Doc. 2) is granted. Collection action shall continue pursuant to 28 U.S.C. 1915(b)(2) until plaintiff satisfies the \$150.00 filing fee in this action.

custodian or any future custodian to disburse funds from his account.

IT IS FURTHER ORDERED this matter is dismissed due to the immunity of the defendants. 28 U.S.C. 1915(e)(2)(B)(iii).

IT IS FURTHER ORDERED plaintiff's motions for service (Docs. 9 and 14) are denied as moot.

Copies of this order shall be transmitted to plaintiff and to the Finance Office of the facility where he is incarcerated.

IT IS SO ORDERED.

Dated at Kansas City, Kansas, this 26th day of April, 2005.

/s/ G. T. VanBebber
G. T. VANBEBBER
United States Senior District Judge