IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

ANTHONY L. DAVIS,

                    Plaintiff,

                                              CIVIL ACTION
          vs.   No. 05-3112-GTV

LOUIS E. BRUCE, et al.,

                    Defendants.

ORDER

By an order dated April 21, 2005, the court dismissed without prejudice plaintiff's amended and supplemented complaint under 42 U.S.C. § 1983. Plaintiff filed a notice of appeal and paid the full $255.00 appellate filing fee.[1] On March 22, 2006, the Tenth Circuit Court of Appeals affirmed the judgment entered by this court.

While petitioner's appeal was pending, plaintiff filed a motion for leave to file a memorandum of law in support of plaintiff's motion for a temporary restraining order and a preliminary injunction (Doc. 21), and captioned the pleading for filing in this and another case filed by plaintiff, <u>Davis v. Clark</u>, Case No. 05-

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[1]The record contains correspondence from plaintiff to the clerk's office, seeking the return of the $255.00 appellate filing fee. Plaintiff states he was unaware his case had been closed on April 21, 2005, and thus "could not appeal." He now seeks the return of funds he sent to the court for a "foreclosed" appeal.

Plaintiff's understanding of the appellate process is flawed. Plaintiff was entitled to file, and did in fact file, an appeal from the final judgment entered in this matter. Pursuant to 28 U.S.C. § 1915(b)(1), full payment of the appellate filing fee was required for that appeal. Plaintiff advances no legitimate claim or argument for the return of the $255.00 appellate filing fee.

3172-SAC.   By an order dated March 22, 2006, in that action, the court considered and denied this request.   Plaintiff's identical motion in the instant matter is denied.

IT IS THEREFORE ORDERED that plaintiff's post-judgment motion for leave to file a memorandum of law in support of plaintiff's motion for a temporary restraining order and preliminary injunction (Doc. 21) is denied.

IT IS SO ORDERED.

DATED: This 4th day of April 2006 at Topeka, Kansas.

 s/ Sam A. Crow
SAM A. CROW
U.S. Senior District Judge