

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS

UNITED STATES OF AMERICA,

Plaintiff,

vs.

Case No. 06-10218-JTM

BARRY P. FILLMAN,

Defendant.

MEMORANDUM AND ORDER

This matter comes before the court on defendant Barry P. Fillman's Motion for Leave to Appeal *In Forma Pauperis*. (Dkt. No. 76). In support of his motion, he submits a Tennessee Department of Corrections Current Bank Status form.

Federal guidelines to proceed *in forma pauperis* are set forth in 28 U.S.C. § 1915(a). The statute provides:

any court of the United States 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 prisoner possesses that the person is unable to pay such fees or give security therefor.

28 U.S.C. § 1915(a). The trial court has the discretion to grant or deny petitioner's request. *Cabrera v. Horgas*, No. 98-4231, 1999 WL 241783, at \*1 (10<sup>th</sup> Cir. Apr. 23, 1999). In reviewing an *in forma pauperis* application, the court examines the applicant's inability to pay court costs. *See* 28 U.S.C. § 1915(a). There is a liberal policy toward permitting proceedings *in forma pauperis* when necessary to ensure that the courts are available to all citizens, not just those who can afford to pay. *See Yellen v. Cooper*, 828 F.2d 1471 (10<sup>th</sup> Cir.1987).

Upon review of Fillman's affidavit of financial status, the court finds that his financial situation warrants *in forma pauperis* status.

IT IS ACCORDINGLY ORDERED this 30<sup>th</sup> day of April 2010, that the court grants Fillman's motion for leave to appeal in forma pauperis for the reasons set forth herein.

s/J. Thomas Marten  
J. THOMAS MARTEN, JUDGE