

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

BRIAN BROWN,

Plaintiff,

vs.

Case No. 06-3003-JTM

MICHAEL GRAY, *et al.*,

Defendants.

MEMORANDUM AND ORDER

The present matter arises on plaintiff's motion to hold defendants in contempt of court for perjury (Dkt. No. 51). For the following reasons, the court denies plaintiff's motion.

Plaintiff is a prisoner who is currently incarcerated at the Federal Correctional Institution in Coleman, Florida ("CFI Coleman"). He recently filed a complaint which alleges that he was denied access to the courts because the Bureau of Prisons ("BOP") wrongfully refused to give him "any" postage for legal mail by limiting his stamps to five (5) stamps per week and/or legal copies. Plaintiff also seeks a hearing for the court to examine the potential constitutional violations. On July 17, 2007, defendants filed a response to plaintiff's motion for a hearing. In the response, defendants noted that the BOP recently gave plaintiff forty (40) stamps. Thereafter, plaintiff filed a "Motion to Hold Defendants in Contempt of Court for Perjury." Plaintiff alleges that the defendants' declarations in the response are false.

In responding to plaintiff's motion, defendants argue that their July 17, 2007 response to plaintiff's motion is correct, and therefore there is no basis to find that the defendants committed perjury. The court agrees. Specifically, in response to plaintiff's query regarding defendants' evidence, defendants use sworn testimony attached to their response, in addition to a supplemental declaration from Mary Benning that re-confirms her prior sworn statements. The court finds no basis to hold defendants in contempt of court for perjury based on their response to plaintiff's motion for a hearing. For this reason, the court denies plaintiff's motion.

IT IS ACCORDINGLY ORDERED this 22nd day of August, 2007 that plaintiff's motion (Dkt. No. 51) is denied.

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