

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS

ELMORE MARKS,

Plaintiff,

v.

CASE NO. 06-3117-SAC

RAY ROBERTS, et al.,

Defendants.

O R D E R

On May 4, 2006, this court entered an order in this civil action finding plaintiff subject to the three-strikes rule under 28 U.S.C. 1915(g), and requiring that he submit the filing fee of \$350 in order to proceed in this case. The time given plaintiff to submit the filing fee has expired, and the fee has not been paid. Nor has plaintiff refuted the court's earlier finding that he does not appear to be in imminent danger. Accordingly, the court finds this action must be dismissed, without prejudice, under 28 U.S.C. 1915(g) and for failure to pay the filing fee.

**IT IS THEREFORE ORDERED** that this action is dismissed and all relief denied, without prejudice.

**IT IS FURTHER ORDERED** that plaintiff's Motions for Temporary Restraining Order and Preliminary Injunction (Doc. 3) are denied as moot.

**IT IS SO ORDERED.**

The Clerk is directed to change the designation of this

action to civil complaint.

Dated this 7th day of June, 2006, at Topeka, Kansas.

s/Sam A. Crow

U. S. Senior District Judge