

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS

CARLON MCGINN,

Plaintiff,

v.

CASE NO. 06-3315-SAC

RAY ROBERTS, WARDEN,  
et al.,

Defendants.

O R D E R

Plaintiff herein filed a motion for leave to proceed in forma pauperis (Doc. 2) which did not include an Inmate Account Statement in support as statutorily mandated. The court entered an Order requiring plaintiff to submit the required financial information in support of his motion. Plaintiff has now provided a copy of his prior motion with his Inmate Account Statement attached, which the court treats as his amended motion for leave to proceed in forma pauperis (Doc. 6). The court has reviewed plaintiff's motions and the financial data and finds as follows.

Section 1915(b)(1) of 28 U.S.C., requires the court to assess an initial partial filing fee of twenty percent of the greater of the average monthly deposits or average monthly balance in the prisoner's account for the six months immediately preceding the date of filing of a civil action. Having examined the records of plaintiff's account, the court finds the average monthly deposit to plaintiff's account is \$102.33, and the average monthly balance is \$106.04. The court therefore assesses an initial partial filing fee of \$21.00, twenty percent of the average monthly balance,

rounded to the lower half dollar<sup>1</sup>. If plaintiff fails to submit the partial filing fee of \$21.00 to the court within the time ordered below, this action may be dismissed without further notice.

Plaintiff asks this court to "attach a claim" to his "Inmate Mandatory Savings Account" and use the balance of \$100.11 therein as a partial payment of his fees. He also asks the court to set a monthly payment in this case of \$10 per month. However, the court finds no reason is alleged which requires it to deviate from the statutory procedure and calculation.

**IT IS THEREFORE ORDERED** that plaintiff's requests for attachment of his "Inmate Mandatory Savings Account" and for the court to set monthly payments of \$10.00 (Doc. 2,6) are denied.

**IT IS FURTHER ORDERED** that plaintiff is given thirty (30) days in which to submit the partial filing fee herein of \$21.00.

**IT IS SO ORDERED.**

Dated this 19th day of January, 2007, at Topeka, Kansas.

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

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Pursuant to 28 U.S.C. §1915(b)(1), plaintiff remains obligated to pay the full \$350.00 district court filing fee in this civil action. Being granted leave to proceed in forma pauperis entitles him to pay the filing fee over time through payments deducted automatically from his inmate trust fund account as authorized by 28 U.S.C. §1915(b)(2).