

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

MICHAEL G. BALDWIN,)	
)	
Plaintiff,)	
)	
v.)	No. 07-1097-WEB
)	
CITY OF OSAWATOMIE, KANSAS, et al.,)	
)	
Defendants.)	
_____)	

Memorandum and Order

This matter is before the court on a Report and Recommendation from Chief Magistrate Judge Karen Humphreys recommending that plaintiff's motions to proceed in forma pauperis be denied. (Doc. 6). The 10-day period for filing objections to the Report has now expired and no objections have been filed. *See* 28 U.S.C. § 636(b)(1)(C). For the reasons cited by the Magistrate Judge in the Report – including the plaintiff's substantial equity in his house and his undisclosed interest in a corporation – the court finds that the denial of the plaintiff's request to proceed in forma pauperis is appropriate.

Additionally, the court notes that on May 17, 2007, the clerk of the court erroneously issued summonses to plaintiff despite the fact that he had not paid the filing fee or been approved for IFP status. *See* 28 U.S.C. § 1914 (the clerk shall require a party instituting a civil action to pay a filing fee of \$350); § 1915(court may authorize commencement without prepayment of fees if plaintiff's affidavit shows inability to pay). Inasmuch as these summonses were issued in error, the court will order that they be quashed and that the defendants be relieved of any obligation to answer the complaint. If plaintiff wishes to obtain summons, he must first pay the appropriate filing fee.

Plaintiff shall pay the filing fee no later than June 22, 2007. Failure to do so will result in an order of dismissal of this case without further notice.

IT IS THEREFORE ORDERED that the Report and Recommendation of the Magistrate Judge (Doc. 6) is hereby ADOPTED, and that Plaintiff's Motions to proceed in forma pauperis (Docs. 2 and 5) are hereby DENIED. Additionally, the summonses issued by the clerk on May 17, 2007, to defendants Joan Boyer, Phil Dudley, City of Osawatomie, Governmental Assistance Services, Tom Speck, Wes Cole, Ann Elmquist, Bill Fouts, and Bret Glendenning are hereby QUASHED and declared to be null and void.

IT IS SO ORDERED this 7th Day of June, 2007, at Wichita, Ks.

s/Wesley E. Brown
Wesley E. Brown
U.S. Senior District Judge