

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

TERNELL MARSHALL,

Plaintiff,

v.

CASE NO. 07-3043-SAC

RICHARD HURST,
et al.,

Defendants.

O R D E R

On October 2, 2007, this court entered an Order assessing an initial partial filing fee in this action and granting plaintiff thirty days in which to submit the part fee in accordance with 28 U.S.C. § 1915(b)(1). Plaintiff was notified that failure to pay the partial fee as required in that order could result in dismissal of this action without prejudice. Plaintiff has not responded to that Order and has not paid the assessed fee in the time allotted. The court's mail to plaintiff has been returned and it appears plaintiff has been released from prison and not provided the court with notice of his change of address. The court finds this action should be dismissed for failure to pay the initial partial filing fee as ordered, and on account of plaintiff's failure to prosecute this action.

IT IS THEREFORE ORDERED that plaintiff's Motion for Leave to Proceed in forma pauperis (Doc. 2) is denied for failure to pay the initial partial filing fee.

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

IT IS SO ORDERED.

Dated this 10th day of December, 2007, at Topeka, Kansas.

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