

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

LARRY P. KENDRICK,

Plaintiff,

v.

CASE NO. 07-3072-SAC

THE KANSAS PAROLE
BOARD, et al,

Defendants.

MEMORANDUM AND ORDER

On May 7, 2007, this court entered an Order requiring plaintiff to provide a certified statement of his inmate trust fund account for the six months preceding the filing of this action in support his motion for leave to proceed in forma pauperis as mandated by 28 U.S.C. §1915. Plaintiff complied with that portion of the court's prior Order.

The court also required plaintiff to show cause why this action should not be dismissed for reasons stated in the prior Order. Plaintiff has filed pleadings in response to the order to show cause. However, before this action may proceed further, plaintiff's Motion for Leave to Proceed in forma pauperis must be determined. Having considered the in forma pauperis motion and supporting documents filed, the court 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 was \$120.49 and the average monthly balance was \$114.36. The court therefore assesses an initial partial filing fee of \$24.00, twenty percent of the average monthly balance, rounded to the lower half dollar¹. Before this action may proceed further, plaintiff must submit the initial partial filing fee to the court.

IT IS THEREFORE ORDERED that plaintiff is granted thirty (30) days in which to submit to the court an initial partial filing fee of \$ 24.00. Any objection to this order must be filed on or before the date payment is due. The failure to pay the fees as required herein may result in dismissal of this action without prejudice.

IT IS FURTHER ORDERED that plaintiff's Motion for Leave to Amend Supplemental Brief (Doc. 9) is granted, and the Supplemental Brief and exhibits attached to the motion may be filed; and that plaintiff's Motion for Procedural Order Authorizing Special Parole Board Management Conference Hearing (Doc. 3) is denied.

IT IS SO ORDERED.

Dated this 12th day of July, 2007, at Topeka, Kansas.

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Pursuant to 28 U.S.C. §1915(b)(1), plaintiff remains obligated to pay the full \$350 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).

s/Sam A. Crow

U. S. Senior District Judge