

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

JOSEPH PATRICK
PACHECO,

Plaintiff,

v.

CASE NO. 07-3172-SAC

JANET THIESSEN,
et al.,

Defendants.

O R D E R

This civil rights complaint, 42 U.S.C. 1983, was filed by an inmate of the Johnson County Jail, Olathe, Kansas. On July 13, 2007, the court entered an Order granting plaintiff time to submit an initial partial filing fee, and to show cause why defendants Thiessen, Morrison, and Schoenig, and his equal protection claim should not be dismissed from this action for the reasons stated in the Order. Plaintiff has since paid the initial partial filing fee, and his motion for leave to proceed in forma pauperis (Doc. 2) shall be granted¹.

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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 from his inmate trust fund account as authorized by 28 U.S.C. §1915(b)(2). Pursuant to §1915(b)(2), the Finance Office of the facility where plaintiff is confined is directed by copy of this Order to collect twenty percent (20%) of the prior month's income each time the amount in plaintiff's account exceeds ten dollars (\$10.00) until the filing fee has been paid in full. Plaintiff is directed to cooperate fully with his custodian in authorizing disbursements to satisfy the filing fee, including but not limited to providing any written authorization required by the custodian or any future

Plaintiff responded to the court's order to show cause, and requests that the action be dismissed as against defendants Thiessen, Morrison, and Schoenig for the reasons stated in that order. In his response, plaintiff also alleged additional facts in support of his constitutional claims as required. The court finds that summons should issue in this case.

Plaintiff's motion for the court to issue a subpoena to the Johnson County District Attorney's Office requiring production of "the dash camera tape from Officer Charles Porter's patrol vehicle," and to the clerk of the Johnson County District Court for a copy of the transcript of the suppression hearing held on January 12, 2007, (Doc. 4) is not decided at this time, and remain pending for determination during pretrial proceedings.

IT IS THEREFORE ORDERED that plaintiff's Motion for Leave to Proceed in forma pauperis (Doc. 2) is granted.

IT IS FURTHER ORDERED that this action is dismissed and all relief is denied as against defendants Janet M. Thiessen, Paul J. Morrison, and Erica Schoenig for failure to show their personal participation and on account of Morrison's and Schoenig's immunity.

IT IS FURTHER ORDERED that the clerk of the court shall prepare summons and waiver of service forms for the remaining defendants, pursuant to Rule 4(d) of the Federal Rules of Civil Procedure, to be served by a United States Marshal or a Deputy Marshal at no cost to plaintiff absent a finding by the court that

custodian to disburse funds from his account.

plaintiff is able to pay such costs.

IT IS FURTHER ORDERED that the screening process under 28 U.S.C. 1915A having been completed, this matter is returned to the clerk of the court for random reassignment pursuant D. Kan. Rule 40.1.

The clerk is directed to transmit a copy of this Order to the Finance Office of the facility where plaintiff is currently incarcerated.

IT IS SO ORDERED.

Dated this 30th day of July, 2007, at Topeka, Kansas.

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