

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS

ALTUS KELLY,

Plaintiff,

v.

CASE NO. 07-3274-SAC

PAUL FELECIANO,  
et al.,

Defendants.

O R D E R

This civil rights complaint, 42 U.S.C. § 1983, was filed by an inmate of the Seward County Detention Center, Liberal, Kansas. Plaintiff also filed a motion for leave to proceed without prepayment of fees (Doc. 2); however plaintiff has not submitted a certified statement of his institutional accounts for the last six months as required by statute, 28 U.S.C. § 1915(a)(2).

Three days after this complaint was filed, plaintiff submitted a notice that he does not want this action filed, and would like the complaint returned. Since the complaint was already filed on the date it was received, the court treats plaintiff's notice as a voluntary dismissal of this action pursuant to Rule 41(a)(1), Federal Rules of Civil Procedure.

**IT IS THEREFORE ORDERED** that this action is voluntarily dismissed by plaintiff, without prejudice.

**IT IS FURTHER ORDERED** that plaintiff's motion to proceed without prepayment of fees (Doc. 2) is denied as moot.

The clerk is directed to return a copy of the materials filed by plaintiff to plaintiff.

IT IS SO ORDERED.

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

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