

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS

WILLIAM MITCHELL,

Plaintiff,

v.

CASE NO. 07-3318-SAC

KENNETH McGOVERN,  
et al.,

Defendants.

O R D E R

This civil rights action is now before the court upon plaintiff's Motion for Dismissal of Complaint (Doc. 14), which this court construes as plaintiff's Notice of Voluntary Dismissal pursuant to FRCP Rule 41(a). Under Rule 41(a), Mr. Mitchell may dismiss this action without a court order at any time before a responsive pleading is filed. The court finds this action should be dismissed, without prejudice, based upon plaintiff's filing of his Notice of Voluntary Dismissal.

Plaintiff has paid the initial partial filing fee assessed herein, has been granted leave to proceed in forma pauperis, and remains obligated to pay the remainder of the full fee from payments deducted from his inmate account.<sup>1</sup> If he should file the

---

1

Pursuant to 28 U.S.C. §1915(b)(1), plaintiff remains obligated to pay the remainder of the full district court filing fee, which is currently \$350.00, 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

same complaint in the future, he may reference this case, Mitchell v. McGovern, 07-3318 (D.Kan. May 6, 2008), and not be assessed the filing fee a second time, if it is the same cause of action.

**IT IS THEREFORE ORDERED** that plaintiff's Motion to Dismiss Complaint (Doc. 14) is construed as plaintiff's notice of voluntary dismissal and granted; and this action is dismissed, without prejudice.

The clerk is directed to transmit copies of this Order to plaintiff and to the financial officer at the institution where plaintiff is currently confined.

**IT IS SO ORDERED.**

Dated this 13th day of May, 2008, at Topeka, Kansas.

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

---

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 custodian to disburse funds from his account.