

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

RITCHIE MOORE BEY,

Plaintiff,

v.

CASE NO. 08-3036-SAC

DAVID DILLON,
et al.,

Defendants.

O R D E R

On February 8, 2008, this court issued an Order requiring plaintiff to submit financial documents in support of his Motion to Proceed Without Prepayment of Fees and a Supplement to his complaint stating additional facts in support of his claim. Plaintiff has filed an "Account Balance Sheet" (Doc. 7), a Supplement to Complaint (Doc. 8), a Motion for Issuance of Summons (Doc. 5), and a Motion to Appoint Counsel (Doc. 6). Having considered these materials the court finds as follows.

The court has considered the financial documents submitted in support of plaintiff's Motion to Proceed Without Prepayment of Fees, and finds the motion should be granted. Plaintiff is reminded that under the Prison Litigation Reform Act a prisoner litigant is required to pay the full district court filing fee of \$350.00 for each civil action filed by him. 28 U.S.C. § 1915(b)(1). The granting of leave merely entitles him to pay the filing fee over time with periodic payments from his inmate trust fund account as detailed in 28 U.S.C. § 1915(b)(2). Plaintiff has

been granted leave to proceed without prepayment of fees in a prior action and has an outstanding fee obligation in that action, Moore v. Douglas County Sheriff's Dept., Case No. 07-3109. Any funds advanced to the court by plaintiff on his behalf must first be applied to plaintiff's outstanding fee obligations. Collection of the full district court filing fee in this case shall begin upon plaintiff's satisfaction of his prior obligation in Case No. 07-3109.

The Finance Office of the Facility where plaintiff is incarcerated will be directed by a copy of this order to collect from plaintiff's account and pay to the clerk of the court twenty percent (20%) of the prior month's income each time the amount in plaintiff's account exceeds ten dollars (\$10.00) until all plaintiff's outstanding filing fee obligations have 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.

The court finds plaintiff's Motion to Appoint Counsel (Doc. 6) should be denied at this juncture. Plaintiff is not entitled to counsel in a civil rights action, and has managed to present the facts in support of his claim. The motion is denied without prejudice to plaintiff filing a new motion at a later stage in the proceedings.

The court further finds a responsive pleading is required.

IT IS THEREFORE ORDERED that plaintiff's Motion for leave to proceed without prepayment of fees (Doc. 2) is granted.

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

IT IS FURTHER ORDERED that plaintiff's Motion to Appoint Counsel (Doc. 6) is denied, without prejudice; and plaintiff's Motion for Issuance of Waivers or Summons (Doc. 5) and Motion for Service (Doc. 3) are granted to the extent that the court herein orders issuance of summons and waivers.

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 to D.Kan.Rule 40.1.

Copies of this Order shall be transmitted to plaintiff, to defendants, to the United States Attorney for the District of Kansas, and to the Finance Officer at the institution where plaintiff is currently incarcerated.

IT IS SO ORDERED.

Dated this 22nd day of February, 2008, at Topeka, Kansas.

s/Sam A. Crow

U. S. Senior District Judge