

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
EASTERN DIVISION**

**FREDERICK BANKS
REG. #05711-068**

PLAINTIFF

V.

CASE NO. 2:11CV00191 JMM

BUREAU OF INDIAN AFFAIRS, ET AL.

DEFENDANTS

ORDER

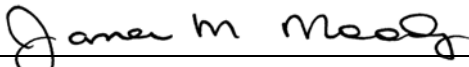
On December 12, 2011, Plaintiff was granted *in forma pauperis* status and he was allowed to proceed with his complaint against the Defendants. The Defendants filed a Motion to Revoke Plaintiff's *in forma pauperis* status based upon "the three strike" rule on February 21, 2012. Plaintiff filed a response to the Motion to Revoke and on March 6, 2012, Magistrate Judge Beth M. Deere granted Defendants' motion finding that Plaintiff had filed three or more civil cases which were dismissed for failure to state a claim. *See* 28 U.S.C. § 1915(g). In this same March 6, 2012 Order, Plaintiff was directed to pay the \$350.00 filing fee within thirty days and informed that if he did not pay the filing fee, his case would be dismissed.

On March 14, 2012, Plaintiff filed a Notice of Appeal to this Court contending that the Magistrate Judge erred as a matter of law because § 1915 does not apply to Plaintiff because he is an American Indian.

Plaintiff contends that if a federal law of general applicability is silent on the issue of applicability to Indian tribes, the federal law will not apply to American Indians if the application of the law to the tribe would abrogate rights guaranteed by Indian treaties. *See Donovan v. Couer d'Alene Tribal Farm*, 751 F.2d 1113, 1115 (9th Cir. 1985).

Plaintiff's appeal is denied (#35). *See Banks v. Bureau of Prisons*, 2010 WL 2232941 (E.D.N.C. June 2010) (Courts are not permitted to exempt prisoner from § 1915 based on American Indian ethnicity).

IT IS ORDERED THIS 29 day of March, 2012.



James M. Moody
United States District Judge