

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 07-cv-01712-MSK-MEH

PETER GEORGACARAKOS,

Plaintiff,

v.

WILEY, *et al.*,

Defendants.

ORDER DIRECTING PLAINTIFF TO SHOW CAUSE FOR AVOIDING DISMISSAL

By an Order entered August 14, 2007 [doc. # 2], Plaintiff was granted leave to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915. Pursuant to § 1915(b)(2), Plaintiff is required to make “monthly payments of 20 percent of the preceding month’s income credited to his account” until the filing fee is paid in full. In the Order granting plaintiff leave to proceed *in forma pauperis*, Plaintiff was instructed either to make the required monthly payments or to show cause **each month** why he has no assets and no means by which to make the monthly payment . In order to show cause, Plaintiff was directed to file a certified copy of his inmate trust fund account statement with the Court. Doc. #2 at 2. Plaintiff was warned that a failure to comply with the requirements of § 1915(b)(2) would result in the dismissal of this civil action. *Id.* at 3-4; *see also* Order, December 10, 2007, doc. #49.

Plaintiff has failed to make the required monthly payments or to show sufficient cause why he has no assets and no means by which to make the monthly payments for the months of October, November, and December 2007, and for January 2008. On September 4, 2007, Plaintiff

paid the initial filing fee of \$15.00, and has made no payments nor filed a certified income statement since that time. In response to this Court's Order of December 10, 2007, Plaintiff filed a handwritten note dated December 13, 2007 apologizing for his failure to comply, and stating that "[h]e will comply henceforth without delay." *See* doc. #52. Subsequently, Plaintiff submitted neither a payment nor a sufficient showing of cause (i.e. certified income statement) until January 18, 2008 when he filed another handwritten note stating "under penalty of perjury" that he had no income for the month of December 2007. *See* doc. #63. Plaintiff explained that he had requested an income statement on December 31, 2007, but had not received it yet. *Id.* Finally, on February 1, 2008, Plaintiff filed another handwritten note stating that he still had not received the income statement he requested on December 31, 2007 to "supplement the statement [he] already submitted." *See* doc. #64.

Again, Plaintiff has submitted no payments and no income statements in October, November and December 2007, and in January 2008. Plaintiff has utterly failed to comply with this Court's orders granting him leave to proceed *in forma pauperis* and requesting a sufficient showing of cause for Plaintiff's failure to submit fee payments since September 2007.

Therefore, IT IS ORDERED that on or before **February 18, 2008**, Plaintiff shall either make the required monthly payments for October 2007, November 2007, December 2007, and January 2008 and for each month thereafter, or file a properly certified copy of his inmate trust fund account statement for the same months demonstrating that he is not required pursuant to 28 U.S.C. § 1915(b)(2) to make a monthly payment. Plaintiff is instructed that the statement be certified by a prison official, and not by himself. The civil action number should be noted on all payments as well as on any trust fund statements that are filed with the court.

IT IS FURTHER ORDERED that if Plaintiff fails to comply with this Order, the complaint and this civil action may be **dismissed without further notice**.¹

DATED: February 4, 2008.

BY THE COURT:

s/ Michael E. Hegarty
Michael E. Hegarty
United States Magistrate Judge

¹Notably, Plaintiff has filed a number of actions with this Court, including in September 2005, a Petition for Writ of Habeas Corpus in 05-cv-02207-ZLW. That action was dismissed for Plaintiff's failure to comply with the payment/show cause requirements of 28 U.S.C. § 1915.