

UNITED STATES DISTRICT COURT  
DISTRICT OF CONNECTICUT

YAHSHUA MESSIAH  
A/K/A ROBIN ZAKIA ELLIOTT,  
Plaintiff,

v.

PRISONER  
CASE NO. 3:12-cv-1582 (DJS)

MICHAEL PAFUMI, et al.,  
Defendants.

**RULING AND ORDER**

Plaintiff, Yahshua Messiah a/k/a Robin Zakia Elliott, is currently incarcerated at the Southern New Mexico Correctional Facility in Las Cruces, New Mexico. He has filed a civil rights action against numerous employees of the Connecticut Department of Correction.

Plaintiff discloses in his application to proceed *in forma pauperis* that he received \$5,500.00 within the last twelve months prior to filing this action. (See Doc. No. 1.) In addition, his prison account statement reflects deposits in various amounts, including a deposit of \$350.00 in June 2012 and a deposit of \$240.00 in September 2012. (See Doc. No. 9) for a total of \$6,090.00 which were subject to his control.

In light of this information, the court finds that Plaintiff has failed to establish that requiring him to pay the \$350.00 filing fee to commence this action would force him to forego the

necessities of life or abandon this action. See *Potnick v. Eastern State Hospital*, 701 F.2d 243, 244 (2d Cir. 1983). Thus, he does not qualify to proceed *in forma pauperis*. His *in forma pauperis* application was granted in error.

On August 30, 2013, the court ordered the plaintiff to file an affidavit or declaration signed under oath and under penalty of perjury, stating facts establishing that he lacked sufficient funds to pay the fee required to file this action. The affidavit or declaration was to detail Plaintiff's receipt and disposition of the funds referenced above and include Plaintiff's inmate account statements beginning six (6) months prior to the date this action was commenced to and including the month in which the declaration is signed. The court warned the plaintiff that failure to file the affidavit or declaration within thirty days of the date of the order would result in revocation of the order granting the plaintiff's application to proceed *in forma pauperis*. The plaintiff has failed to file an affidavit or declaration or otherwise contact the court.

#### **Conclusion**

Accordingly, the Order [Doc. No. 10] granting the application to proceed *in forma pauperis* is **REVOKED**. As indicated above, in light of the financial information submitted by the plaintiff, it would be inappropriate to permit the action to proceed in this Court, without payment of fees, under 28

U.S.C. § 1915. The Court notes that the complaint will be deemed filed as of November 8, 2012, the date it was received in the Clerk's Office, so long as the filing fee is submitted within the time allotted by this order.

Accordingly, the Motion for Leave to Proceed *In Forma Pauperis* [Doc. No. 1] is **DENIED**. All further proceedings in the matter shall be held in abeyance pending the plaintiff's delivery of the filing fee in the amount of \$350.00 (cash, money order or bank check made payable to the Clerk of Court) to the Clerk's Office, 915 Lafayette Blvd., Bridgeport, Connecticut, 06604. Failure to pay the filing fee on or before **October 31, 2013**, will result in the dismissal of this action.

SO ORDERED at Hartford, Connecticut this 7<sup>th</sup> day of October, 2013.

\_\_\_\_\_/s/ DJS\_\_\_\_\_  
DOMINIC J. SQUATRITO  
UNITED STATES DISTRICT JUDGE