

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

CHEVALIER BARNES,)	
)	
Plaintiff,)	
)	
v.)	Case No. 16 C 7124
)	
THOMAS DART, et al.,)	
)	
Defendants.)	

MEMORANDUM ORDER

Chevalier Barnes ("Barnes") has used the Clerk's-Office-supplied form of Complaint Under the Civil Rights Act, Title 42 Section 1983 to proceed against Cook County Sheriff Thomas Dart, John Raba (identified as the Director of Cermak Health and Hospital Services of Cook County) and two "Doe" defendants identified as members of the intake staff at Cermak Health, charging that Barnes' constitutional rights were violated by the defendants' claimed deliberate indifference to his request for methadon when he was moved to the Cook County Department of Corrections ("County Jail"). Barnes has accompanied his self-prepared Complaint with two other Clerk's-Office-supplied forms: an In Forma Pauperis Application ("Application") and a Motion for Appointment of Counsel ("Motion"). This sua sponte memorandum order addresses several problems with Barnes' submissions, beginning (as our Court of Appeals has mandated) with the Application and the requirements of 28 U.S.C. § 1915 ("Section 1915").

In the latter respect the Application clearly confirms Barnes' inability to pay the required filing fee in advance, so that Section 1915(b)(1) requires him "to pay the full amount of a filing

fee" on an installment plan. In that respect Barnes has totally ignored the express directive in the Application's emphasized "NOTICE TO PRISONERS," immediately below the form's signature line, that the Application must be accompanied by a certified copy of his trust fund account statement for the six-month period immediately preceding the filing of his Complaint (a notice that echoes the Congressional command to the identical effect in Section 1915(a)(2)). That being the case, Barnes is ordered to obtain and file with this District Court forthwith a photocopy of his trust fund account statement at the County Jail for the period beginning January 1, 2016 and ending July 6, 2016. This Court will then be able to calculate, and to issue an appropriate memorandum order dealing with, the requirements of Section 1915(b)(1) and (2).

To turn to the substantive aspect of Barnes' Complaint, its attachment of a photocopy of the grievance form that Barnes submitted at the County Jail has confirmed beyond dispute his failure to satisfy the statutory precondition to filing this lawsuit, as decreed by Congress in 42 U.S.C. § 1997e (a):

No action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted.

Although Barnes initially filed a grievance form, and although the text of the response by the person handling the referral of that grievance is impossible to read,¹ what is clear is that Barnes received that response on either June 26 or June 29 (again the uncertainty in that regard is a product of the poor quality of the photocopy). But either way the next section of the form, which

¹ That problem is inherent in the way grievances are handled at the County Jail. Those grievance forms, filled out with handwritten information provided by the complaining prisoner and by the response by a staff person at the County Jail, are in a multi-layered form, and the copy of that form given back to the prisoner is invariably unreadable when photocopied.

is the place for the "inmate's request for an appeal," has been stricken out rather than being filled out. Instead of pursuing that administrative remedy, Barnes simply signed both the Complaint and the Application on June 29 and sent it to this District Court.

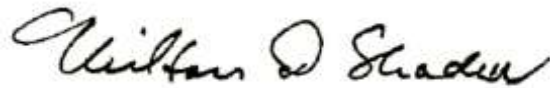
As the grievance form specifies:

To exhaust administrative remedies, appeals must be made within 14 days of the date the inmate received the response.

Whether that the earlier-referred-to date of Barnes' receipt of the response to his grievance was June 26 or June 29, Barnes has unquestionably failed to satisfy the statutory precondition to suit.

Accordingly:

1. Both the Complaint and this action are dismissed.
2. Such dismissal does not affect Barnes' obligation, as set out at the outset of this memorandum order, to provide the required Section 1915 information so that this Court can make the necessary determination and order his payment of the filing fee in future installments.
3. Barnes' Motion is denied as moot (which is just as well, considering that he did not provide the information expressly called for by Paragraph 2 of the Motion regarding any efforts he has made on his own to obtain counsel to represent him).



Milton I. Shadur
Senior United States District Judge

Date: July 14, 2016