

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

SHAWN P. GANT,

Plaintiff,

vs.

MARTY FISHER, DAVE CARMODY,
JAMES DAVIS, FAYETTE COUNTY
BOARD OF SUPERVISORS,

Defendants.

No. C06-2019-LRR

INITIAL REVIEW ORDER

This matter is before the court on the plaintiff's application to proceed in forma pauperis pursuant to 28 U.S.C. § 1915. The plaintiff submitted such application on March 27, 2006. Along with his application to proceed in forma pauperis, the plaintiff submitted a complaint and an application for appointment of counsel.

Based on the application and certificate of inmate account, in forma pauperis status is granted. 28 U.S.C. § 1915. The Clerk of Court is directed to file the complaint without the prepayment of the filing fee. The plaintiff is directed to submit \$5.87 as his initial partial filing fee. 28 U.S.C. § 1915(b)(1). In addition, the plaintiff is directed to submit monthly payments of 20 percent of the preceding month's income credited to his inmate account until the \$250.00 filing fee is paid. 28 U.S.C. § 1915(b)(2). *See also* 28 U.S.C. § 1914(a) (requiring \$250.00 filing fee). The agency having custody of the plaintiff is directed to forward payments from his inmate account to the Clerk of Court each time the amount in the account exceeds \$10 until the filing fee is paid. 28 U.S.C. § 1915(b)(2).

Currently confined at the Clarinda Correctional Facility in Clarinda, Iowa, the plaintiff, proceeding pro se, submitted a complaint under 42 U.S.C. § 1983 to redress the

alleged deprivation of his rights. Jurisdiction is predicated on 28 U.S.C. § 1343. Under 28 U.S.C. § 1391(b), venue appears to be proper as the defendants are located in this district and the events giving rise to this action occurred in this district.

In his complaint, the plaintiff appears to assert an Eight Amendment claim. For the alleged violation of his constitutional rights, the plaintiff seeks monetary compensation.

The plaintiff's request for appointment of counsel is granted. The Clerk of Court is directed to appoint an attorney to represent the plaintiff in this matter. The cost for such appointment is to be paid from the Library Fund.

Because the court is unable to determine whether the plaintiff's claim is frivolous within the meaning of 28 U.S.C. § 1915A, the court is of the opinion that the matter is best addressed by requiring appointed counsel to file an amended and substituted complaint, if warranted. The plaintiff, through appointed counsel, is directed to file by no later than May 4, 2006 an amended and substituted complaint specifically setting forth pertinent facts, if they exist, which state a constitutional violation, and naming those specific persons who, acting under color of law, allegedly violated the plaintiff's rights. If the plaintiff fails to comply with this order, this case may be dismissed for failure to respond to an order of the court. Fed. R. Civ. P. 41(b); *Edgington v. Missouri Dep't of Corrections*, 52 F.3d 777, 779-80 (8th Cir. 1995); cf. L.R. 41.1(b)(4). The court reserves ruling on the plaintiff's claims for purposes of 28 U.S.C. § 1915A.

IT IS SO ORDERED.

DATED this 4th day of April, 2006.



LINDA R. READE
JUDGE, U. S. DISTRICT COURT
NORTHERN DISTRICT OF IOWA

TO: WARDEN/ADMINISTRATOR
Clarinda Correctional Facility, Clarinda, Iowa

NOTICE OF COLLECTION OF FILING FEE

You are hereby given notice that Shawn P. Gant, #1051511, an inmate at your facility, filed the following lawsuit in the United States District Court for the Northern District of Iowa: *Gant v. Fisher, et al.*, Case No. C06-2019-LRR. The inmate was granted in forma pauperis status pursuant to 28 U.S.C. § 1915(b), which requires partial payments of the \$250.00 filing fee. Based on the prisoner account information, the court has assessed an initial partial filing fee of \$5.87, which the inmate must pay now to the Clerk of Court. 28 U.S.C. § 1915(b)(1).

After payment of the initial partial filing fee, the prisoner shall be required to make monthly payments of 20 percent of the preceding month's income credited to the prisoner's account. The agency having custody of the prisoner shall forward payments from the prisoner's account to the clerk of court each time the amount in the account exceeds \$10 until the filing fees are paid.

28 U.S.C. § 1915(b)(2). If the inmate currently does not have sufficient funds to pay the initial partial filing fee, you must monitor the account and send payments to the Clerk of Court according to the system provided in 28 U.S.C. § 1915(b)(2).

Please make the appropriate arrangements to have these fees deducted and sent to the court as instructed.

/s/ by Dianne Eveland on 4/4/06

Pridgen J. Watkins
U.S. District Court Clerk
Northern District of Iowa