

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

CLARENCE E.
GRISSOM, Jr.,

Plaintiff,

v.

CASE NO. 10-3134-SAC

KAREN ROHLING,

Defendant.

O R D E R

On September 15, 2010, this court entered an Order in this pro se civil rights action giving plaintiff time in which to satisfy the filing fee prerequisites as well as to show cause why this action should not be dismissed for the reasons stated therein. Plaintiff filed an interlocutory appeal, which was dismissed for failure to prosecute. The matter is now before the court upon plaintiff's Response filed on October 15, 2010. Having considered this filing, the court finds as follows.

As his Response, Mr. Grissom has submitted a copy of the docket entry for the court's show cause order to which he has attached the financial information in support of his motion to proceed without prepayment of fees. The financial information indicates that he has insufficient funds either to pay the filing fee in full or for the court to assess an initial partial filing fee. Accordingly, the court grants plaintiff's motion to proceed without prepayment of fees. Plaintiff is again reminded that he remains obligated to pay the \$350.00 district court filing fee in this civil action through payments collected from his inmate trust fund account when funds become available, as authorized by 28 U.S.C. § 1915(b)(2).

Other than the aforementioned financial certificate and docket entry copy, Mr. Grisson has submitted nothing in response to the court's screening Order. He has thus utterly failed to show cause why this action should not be dismissed for the reasons stated in the court's Order of September 15, 2010. The court finds that this action must be dismissed due to plaintiff's failure to show cause, as ordered.

IT IS THEREFORE BY THE COURT ORDERED that plaintiff's motion to proceed without prepayment of fees (Doc. 2) is granted, and he is assessed the full filing fee herein of \$350.00 to be paid through payments automatically deducted from his inmate account.¹

IT IS FURTHER ORDERED that this action is dismissed on account of plaintiff's failure to show cause as previously ordered by the court and for the reasons stated in the court's Order dated September 15, 2010.

IT IS FURTHER ORDERED that plaintiff's motion for appointment of counsel on interlocutory appeal (Doc. 25) and plaintiff's other pending motion for appointment of counsel (Doc. 30) are denied as moot.

The clerk is directed to transmit a copy of this Order to the Finance Office at the institution where plaintiff is currently

¹ Plaintiff was granted leave to proceed without prepayment of fees in a prior action and has an outstanding fee obligation in that action, Case No. 09-3128. Any funds advanced to the court by plaintiff on his behalf must first be applied to plaintiff's outstanding fee obligations. Collection of the full district court filing fee in this case shall begin upon plaintiff's satisfaction of his prior obligation in Case No. 09-3128. The Finance Office of the facility where plaintiff is incarcerated will be directed by a copy of this order to collect from plaintiff's account and pay to the clerk of the court twenty percent (20%) of the prior month's income each time the amount in plaintiff's account exceeds ten dollars (\$10.00) until all plaintiff's outstanding filing fee obligations have been paid in full. Plaintiff is directed to cooperate fully with his custodian in authorizing disbursements to satisfy the filing fee, including but not limited to providing any written authorization required by the custodian or any future custodian to disburse funds from his account.

confined.

IT IS SO ORDERED.

Dated this 9th day of November, 2010, at Topeka, Kansas.

s/Sam A. Crow
U. S. Senior District Judge