

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
AT PADUCAH**

**TIMOTHY D. ROUSE, JR.
A/K/A JASMINE MONTEZ LEAVELL**

PLAINTIFF

v.

CIVIL ACTION NO. 5:10CV-P116-R

JAY JONES *et al.*

DEFENDANTS

MEMORANDUM AND ORDER

Following the Court's grant of Plaintiff's application to proceed without prepayment of fees, the Court received a letter from Lisa Gibbs, Accountant III, at the Kentucky State Penitentiary, suggesting that the certification-of-funds statement, which indicated that "the sum of \$ZERO has been deposited to this inmate's account during the preceding six months," might be a forgery, as Plaintiff actually had funds deposited during that period. Because under 28 U.S.C. § 1915(e)(2)(A), "the court shall dismiss the case at any time if the court determines that--the allegation of poverty is untrue," the Court ordered Plaintiff to show cause why this action should not be dismissed (DN 13). The Court also sent Ms. Gibbs the financial document that she suggested may have been forged.

In response, Plaintiff declares under penalty of perjury that he did not forge any financial information submitted to this Court (DN 14). Further, Ms. Gibbs sent a letter to the Court advising that she has "verified that all signatures are correct and that the certification of funds dated June 16, 2010 contained an error in reporting [Plaintiff's] funds" (DN 15). Ms. Gibbs enclosed a corrected version of the certification of funds as well as a copy of Plaintiff's six-month statement; both documents indicate that \$246.00 had been deposited into Plaintiff's account for the six-month period preceding the filing of the complaint.

In light of the foregoing information, the Court concludes that Plaintiff's allegation of poverty was *not* untrue and will, therefore, not dismiss the complaint on this basis. The Court will, however, by separate Order, **AMEND its prior Order granting Plaintiff's application to proceed without prepayment of fees and assess an initial partial filing fee against him.**

Date:

cc: Plaintiff, *pro se*
KSP, Attn: Lisa Gibbs, Inmate Accounts (#213645), P.O. Box 5128, Eddyville, KY 42038
4413.005