

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION**

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|--------------------------|---|-------------------|
| LAWRENCE MARTIN EDWARDS, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | No. 1:06-CV-1 CAS |
| |) | |
| CHUCK DWYER, et al., |) | |
| |) | |
| Defendants. |) | |

ORDER

This matter is before the Court on defendants Dowdy, Williams, Martinez and Vance’s motion for a bill of costs. Plaintiff has not responded to defendants’ motion for a bill of costs and the time to do so has passed. See E.D. Mo. Local Rule 8.03.

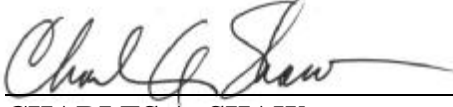
These defendants are prevailing parties in this matter. “A prevailing party is presumptively entitled to recover all of its costs.” In re Derailment Cases, 417 F.3d 840, 844 (8th Cir. 2005). Nonetheless, the Court recognizes that it has discretion to deny costs to a prevailing party, even in the absence of misconduct by that party. See Greaser v. State of Mo., Dept. of Corrections, 145 F.3d 979, 985 (8th Cir. 1998); Hibbs v. K-Mart Corp., 870 F.2d 435, 443 (8th Cir. 1989) (discussing discretionary nature of cost award under Rule 54(d) and 28 U.S.C. § 1920).

The Court also recognizes that costs may be awarded even against indigent persons granted in forma pauperis status, see 28 U.S.C. § 1915(f); cf. Galvan v. Cameron Mut. Ins. Co., 831 F.2d 804, 805-06 (8th Cir. 1987) (per curiam) (assessing double costs against pro se litigant for filing frivolous appeal); see also Lampkins v. Thompson, 337 F.3d 1009, 1017 (8th Cir. 2003) (district court did not abuse its discretion in awarding costs against indigent prisoner where it first properly considered his indigency and incarceration and reduced the amount of the sought costs).

The Court in the exercise of its discretion declines to award the defendants their costs in this matter. The Court believes that plaintiff would have a difficult time paying the costs due to his incarceration, and that the defendants are better able to absorb the relatively minimal costs they seek in this action.

Accordingly,

IT IS HEREBY ORDERED that defendants Dowdy, Williams, Martinez and Vance's motion for a bill of costs is **DENIED**. [Doc. 258]



CHARLES A. SHAW
UNITED STATES DISTRICT JUDGE

Dated this 21st day of October, 2008.