

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

BENJAMIN WAGNER,

Plaintiff,

v.

DOUG WORSHAM,

Defendant.

)
)
)
)
)
)
)
)
)
)
)

No. 4:15-CV-1362 CDP

MEMORANDUM AND ORDER

Before the Court is plaintiff's amended motion for relief related to his request for return of the filing fees paid into this Court. Plaintiff seeks return of \$103.28 received by this Court on January 3, 2017, which he states was withheld from him by the Missouri Department of Corrections on December 5, 2016, unlawfully. This is the fourth motion brought by plaintiff seeking reduction or return of his filing fees.

Plaintiff, who is presently incarcerated at Farmington Correctional Center, brought the instant action pursuant to 42 U.S.C. § 1983 on August 31, 2015 against FCC's Supervisor of Religious Programs, Doug Worsham. Plaintiff alleged that his religious rights were being violated at FCC because as a member of the Church of Jesus Christ of Latter-day Saints (LDS), he has been categorized as a General Christian Group. Plaintiff believed he was discriminated against because other Christians did not believe in the Book of Mormon. The Court analyzed plaintiff's claims and found them subject to dismissal pursuant to 28 U.S.C. § 1915(e)(2)(B). Nevertheless, as a prisoner, plaintiff was required to pay the full amount of the filing fee, pursuant to 28 U.S.C. § 1915.

Plaintiff states that between September 1, 2016 and September 30, 2016, he found out that the Missouri Treasurer's Office was holding seven (7) shares of stock in the plaintiff's name as "Lost Money." Plaintiff requested that these shares be fully liquidated and the cash funds produced from the liquidation be sent to him. Plaintiff claims that the funds were credited to plaintiff's account on December 5, 2016. An amount of \$103.28 was received by this Court on January 3, 2017.

Plaintiff argues that because he purchased the stocks for his own income between 1997 and 2011, and paid income tax during those years, the "income" was received prior to the filing of this lawsuit. By asking the Missouri Treasurer's Office to fully liquidate his investment portfolio into cash funds, plaintiff incurred "income" at that time, such that the Missouri Department of Corrections was obligated, pursuant to the Prison Litigation Reform Act, to provide the Court with 20% of his cash funds. *See* 28 U.S.C. § 1915.


Accordingly,

IT IS HEREBY ORDERED that plaintiff's request for return of fees [Doc. #25] is **DENIED**.

IT IS FURTHER ORDERED that no additional filings related to plaintiff's filing fees shall be accepted by this Court.

IT IS FURTHER ORDERED that an appeal of this Memorandum and Order shall not be taken in good faith.

Dated this 5th day of April, 2017.



CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE