

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
CENTRAL DIVISION**

JAMES M. SCOTT, SR., Register No. 513597,)
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Plaintiff,)
)
)
v.) Case No.: 08-4260-CV-C-SOW
)
)
DAVE DORMIRE, et al.,)
)
)
Defendants.)

ORDER

On June 16, 2009, United States Magistrate Judge William A. Knox recommended that defendants' motion to dismiss, without prejudice, plaintiff's claims against defendant John Meadow be granted; that defendants' motions to dismiss, for reconsideration, to dismiss, or in the alternative, to strike and for more definite statement, and alternative motion to stay be denied, without prejudice to refiling if deemed appropriate; and that plaintiff's motions for preliminary injunctive relief, to dismiss party, to substitute party and for sanctions be denied, without prejudice to refiling if deemed appropriate. On October 7, 2009, Judge Knox recommended that plaintiff's complaint be dismissed, pursuant to Rule 41(b) of the Federal Rules of Civil Procedure, for failure to comply with court orders.

The court has conducted a de novo review of the record, including the exceptions filed by plaintiff on October 9 and 16, 2009. The issues raised in plaintiff's exceptions were adequately addressed in the reports and recommendations. The court is persuaded that the recommendations of the Magistrate Judge are correct and should be adopted, in part.

Inmates who file an appeal with the United States Court of Appeals for the Eighth Circuit are required to pay the full \$455.00 appellate filing fee, regardless of the outcome of the appeal. Henderson v. Norris, 129 F.3d 481, 484 (8th Cir. 1997). The filing of a notice of appeal is

considered a consent by the inmate to allow prison officials to deduct an initial partial appellate filing fee and later installments from the prisoner's account.

IT IS, THEREFORE, ORDERED that [73] the Report and Recommendation of June 16, 2009 and [89] the Report and Recommendation of October 7, 2009, are adopted, in part. It is further

ORDERED that plaintiff's complaint is dismissed, without prejudice, pursuant to Rule 41(b) of the Federal Rules of Civil Procedure for failure to comply with court orders. It is further

ORDERED that defendants' motions to dismiss are denied as moot. [26, 28, 56, 57, 68, 86]

It is further

ORDERED that plaintiff's motion for preliminary injunctive relief, to dismiss party, to substitute party and for sanctions are denied, without prejudice. [37, 60, 72]

/s/ Scott O. Wright
SCOTT O. WRIGHT
Senior United States District Judge

DATED: November 4, 2009