

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

IAN C. BITTICK, Register No. 191410,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 09-4139-CV-C-SOW
	)	
JEREMIAH NIXON, et al.,	)	
	)	
Defendants.	)	

**ORDER**

On November 2, 2009, United States Magistrate Judge William A. Knox recommended dismissing plaintiff's claims. The parties were advised they could file written exceptions to the recommendation, pursuant to 28 U.S.C. § 636(b)(1)(C). No exceptions have been filed, although plaintiff was granted an extension of time in which to do so.

A review of the record convinces the court that the recommendation of the Magistrate Judge is correct and should be adopted.

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 [6] the Report and Recommendation of November 2, 2009, is adopted. It is further

ORDERED that plaintiff's claims are dismissed for failure to state a claim, as frivolous and on res judicata grounds.

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

DATED: December 30, 2009