

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

JOHN OYER,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 16-00982-CV-W-ODS
)	
CITY OF KANSAS CITY,)	
MISSOURI, et al.,)	
)	
Defendants.)	

ORDER (1) DENYING AS MOOT PLAINTIFF’S MOTION TO CONTINUE DEADLINE TO APPEAL, AND (2) DENYING PLAINTIFF’S MOTION FOR LEAVE TO APPEAL IN FORMA PAUPERIS

Pending are two motions: (1) Plaintiff’s motion to continue deadline to appeal (Doc. #25), and (2) Plaintiff’s motion to appeal in forma pauperis (Doc. #24).

In his motion to continue deadline to appeal, Plaintiff states he filed writs of mandamus in the Eighth Circuit, and requests this Court delay the appeal deadline so issues may be resolved in the Eighth Circuit. Doc. #25. Plaintiff filed his appeal within thirty days after the Court’s denial of his motion to proceed in forma pauperis in the District Court. Plaintiff’s appeal was timely. See Fed. R. App. P. 4(a)(1)(A).

Accordingly, the Court denies as moot Plaintiff’s motion to continue deadline to appeal.

Plaintiff also requests to proceed in forma pauperis on appeal to challenge this Court’s denial of his motion to proceed in forma pauperis. *Id.* This Court initially denied Plaintiff’s motion to proceed in forma pauperis because Plaintiff did not file an Affidavit of Financial Status as required by Local Rule 83.7(a), and the Court determined it lacked jurisdiction over Plaintiff’s claims. Doc. #4. Plaintiff then filed a multitude of motions to reconsider, all of which were denied. Docs. #6, 12, 15.

After receiving permission to file an Amended Complaint, Plaintiff filed an Amended Complaint and Affidavit of Financial Status. Docs. #19, 20. The Court noted Plaintiff’s affidavit was not notarized as required. Doc. #21, at 2 n.1. After determining

Plaintiff's Amended Complaint was frivolous, the Court again denied Plaintiff's request to proceed in forma pauperis. Doc. #21.

Federal Rule of Appellate Procedure 24 sets forth the requirements for the District Court's consideration of a motion to appeal in forma pauperis. In this instance, Plaintiff did not submit detailed financial status information as required by Rule 24(a)(1)(A). Plaintiff did "incorporate[] his in forma pauperis on file as it entered herin [sic] in its entirety." Doc. #24. However, the Court notes again Plaintiff's financial affidavit was not notarized, and the Affidavit set out in the Rules of Appellate Procedure requires more detailed financial and personal information than Plaintiff has previously provided. Given Plaintiff's failure to properly submit required forms indicating his financial status, the Court denies Plaintiff's motion to appeal in forma pauperis.

The Court also denies Plaintiff's motion to appeal in forma pauperis because Plaintiff's Amended Complaint is frivolous. As explained in the Court's second denial of Plaintiff's motion to proceed in forma pauperis, Plaintiff's Amended Complaint does not set forth a conceivable basis upon which to find defendants liable, names entities that cannot be sued, and lacks an arguable basis in law and fact. Doc. #21, at 2-3. Accordingly, the Court denies Plaintiff's motion to appeal in forma pauperis.

IT IS SO ORDERED.

DATE: March 9, 2017

/s/ Ortrie D. Smith
ORTRIE D. SMITH, SENIOR JUDGE
UNITED STATES DISTRICT COURT