

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

MICHAEL A. HERNANDEZ,)
)
Plaintiff,)
)
v.)
)
BRIAN SILVERMAN, KATHREEN)
HUTCHINSON, STEVE)
ELMSHAEUSER, KEN HART,)
DAVE EUBANKS, LEN TABOR,)
and AMY RAGSDALE,)
)
Defendants.)

4:08CV3099

**MEMORANDUM
AND ORDER**

This matter is before the court on Plaintiff’s Objection to Judgment, which the court liberally construes as a Motion for Reconsideration. (Filing No. [21](#).) In his Objection, Plaintiff seeks reconsideration of the court’s October 1, 2008 Memorandum and Order and Judgment which dismissed Petitioner’s claims without prejudice because the claims must first be brought in a habeas proceeding. (Filing Nos. [19](#) and [20](#).) The court has carefully reviewed Plaintiff’s Objection and finds no good cause for reconsideration of any portion of its October 1, 2008 Memorandum and Order or Judgment.

In addition, pursuant to the Prison Litigation Reform Act, Plaintiff is hereby notified that the filing of a notice of appeal by a prisoner makes the prisoner liable for payment of the full \$455.00 appellate filing fee regardless of the outcome of the appeal. An incarcerated civil appellant is required to pay the full amount of the \$455.00 filing fee by making monthly payments to the court, even if he or she is proceeding in forma pauperis. [28 U.S.C. § 1915\(b\)](#).

By filing a notice of appeal, the prisoner consents to the deduction of the \$455.00 filing fee from the prisoner's prison account by prison officials. The prisoner must submit to the clerk of the district court a certified copy of the prisoner's prison account for the last six months within 30 days of filing the notice of appeal. Failure to file the prison account information will result in the assessment of an initial appellate partial fee of \$35 or such other amount that is reasonable, based on whatever information the court has about the prisoner's finances.

IT IS THEREFORE ORDERED that: Plaintiff's Objection to Judgment (filing no. [21](#)), construed as a Motion for Reconsideration, is denied.

December 16, 2008.

BY THE COURT:

s/Richard G. Kopf
United States District Judge