

[F. Supp. 2d 951 \(D. Neb. 2001\)](#), (citing [In re Tyler, 110 F.3d 528, 529 \(8th Cir. 1997\)](#)). The appellate filing fee is assessed when the district court receives the prisoner's notice of appeal. [Henderson v. Norris, 129 F.3d 481, 485 \(8th Cir. 1997\)](#).

Pursuant to [28 U.S.C. § 1915\(b\)\(1\)](#), Plaintiff must pay an initial partial filing fee in the amount of 20 percent of the greater of Plaintiff's average monthly account balance or average monthly deposits for the six months preceding the filing of the appeal. Accordingly, based on the records before the court, the initial partial filing fee is **\$2.20**, based on average monthly balance of **\$10.99**. (Filing No. [17](#).)

In addition to the initial partial filing fee, Plaintiff must "make monthly payments of 20 percent of the preceding month's income credited to the prisoner's account." [28 U.S.C. § 1915\(b\)\(2\)](#). The statute places the burden on the prisoner's institution to collect the additional monthly payments and forward them to the Court as follows:

After payment of the initial partial filing fee, the prisoner shall be required to make monthly payments of 20 percent of the preceding month's income credited to the prisoner's account. The agency having custody of the prisoner shall forward payments from the prisoner's account to the clerk of the court each time the amount in the account exceeds \$10 until the filing fees are paid.

[28 U.S.C. § 1915\(b\)\(2\)](#). Therefore, after payment in full of the initial partial filing fee, the remaining installments shall be collected pursuant to this procedure.

Plaintiff also filed a Motion to Appoint Counsel, requesting the appointment of counsel for his appeal. (Filing No. [18](#).) The court cannot routinely appoint counsel in civil cases. In [Davis v. Scott, 94 F.3d 444, 447 \(8th Cir. 1996\)](#), the Eighth Circuit Court of Appeals explained that "[i]ndigent civil litigants do not have a constitutional or statutory right to appointed counsel. . . . The trial court has broad discretion to decide whether both the

plaintiff and the court will benefit from the appointment of counsel” *Id.* (quotation and citation omitted). No such benefit is apparent here. The request for the appointment of counsel is therefore denied without prejudice to reassertion before the Eighth Circuit.

IT IS THEREFORE ORDERED that:

1. Plaintiff’s Motion for Leave to Appeal In Forma Pauperis (Filing No. [16](#)) is granted;
2. Plaintiff shall pay an initial partial filing fee of \$2.20 by October 4, 2012, unless an enlargement of time is granted in response to a written motion;
3. After payment of the initial partial filing fee, Plaintiff’s institution shall collect the additional monthly payments in the manner set forth in [28 U.S.C. § 1915\(b\)\(2\)](#), quoted above, and shall forward those installments to the court;
4. The Clerk of the court is directed to send a copy of this order to the appropriate official at Plaintiff’s institution and to the Eighth Circuit Court of Appeals; and
5. Plaintiff’s Motion to Appoint Counsel (Filing No. [18](#)) is denied.

DATED this 4th day of September, 2012.

BY THE COURT:

s/Laurie Smith Camp
Chief United States District Judge

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