

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

RICHARD WEATHERLY,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 06-CV-127-JHP-FHM
)	
DONALD SUTMILLER, M.D.;)	
DEANNE LEMMONS, R.N.,)	
)	
Defendants.)	

ORDER

On March 1, 2006, Plaintiff, a state prisoner appearing *pro se*, submitted for filing a 42 U.S.C. § 1983 civil rights complaint (Dkt. # 1), and a motion for leave to proceed *in forma pauperis* (Dkt. # 2). Before this action may proceed, Plaintiff shall be required to file an amended motion to proceed *in forma pauperis* in compliance with 28 U.S.C. § 1915(a)(2).

After reviewing the motion for leave to proceed *in forma pauperis*, the Court finds that Petitioner has failed to provide sufficient information for the Court's consideration as required by statute. Pursuant to 28 U.S.C. § 1915(a)(2), a "prisoner seeking to bring a civil action . . . without prepayment of fees . . . in addition to filing the affidavit filed under paragraph (1), shall submit a certified copy of the trust fund account statement (or institutional equivalent) for the prisoner for the **6-month period immediately preceding** the filing of the complaint . . . obtained from the appropriate official of each prison at which the prisoner is or was confined." 28 U.S.C. § 1915(a)(2) (emphasis added). This information must be provided so that the Court can assess not only Plaintiff's ability to pay the filing fee but also his ability to pay an initial partial filing fee to be applied towards the filing fee should Plaintiff be allowed to proceed without prepayment of the full

fee. See 28 U.S.C. § 1915(b). **Plaintiff is advised that even if he has insufficient funds to prepay the full \$250 filing fee required to commence this action, he will nonetheless be responsible for full payment of the filing fee in monthly installments as mandated by 28 U.S.C. § 1915(b).**

As indicated above, Plaintiff filed his complaint on March 1, 2006. In support of his motion for leave to proceed *in forma pauperis*, Plaintiff has provided a certified copy of his inmate accounting for the period from April 1, 2005 through October 4, 2005. The “Statement of Institutional Accounts,” signed by an authorized prison official, is dated October 4, 2005. However, missing from the accounting is a history of Plaintiff’s financial transactions from October 4, 2005, to March 1, 2006. As stated above, Plaintiff is required to provide a certified copy of his account statement for the 6-month period immediately preceding the filing of the complaint. The relevant period in this case is from approximately September 1, 2005, to March 1, 2006. The Court finds Plaintiff shall be required to amend his motion for leave to proceed *in forma pauperis* to include the account information for the relevant period.

ACCORDINGLY, IT IS HEREBY ORDERED that:

1. Within thirty (30) days of the entry of this Order, or by April 17, 2006, Plaintiff shall either pay the \$250 filing fee or submit an amended motion for leave to proceed *in forma pauperis* supported by the required certified copy of his trust fund account statement (or institutional equivalent) for the **6-month period immediately preceding the filing of the complaint**, or from approximately September 1, 2005, to March 1, 2006, obtained from the appropriate official of the facility at which he is confined or show cause in writing for his failure to do so.

2. The Clerk of Court is directed to send Plaintiff a blank motion for leave to proceed *in forma pauperis* (form ifp-cr.dis), marked "amended" and identified as Case No. 06-CV-127-JHP-FHM.

4. The Clerk of Court shall send a copy of this Order to accounting officials at Dick Conner Correctional Center, Hominy, Oklahoma.

Failure to comply with this order may result in the dismissal of this action without prejudice.

SO ORDERED THIS 17th day of March 2006.


James H. Payne
United States District Judge
Northern District of Oklahoma