

**UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA**

<b>HERBERT R. LEWIS JR.,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>Case No. CIV-17-544-F</b>
	)	
<b>STATE OF OKLAHOMA et al.,</b>	)	
	)	
<b>Defendants.</b>	)	

**ORDER**

Plaintiff Herbert R. Lewis Jr., a state pretrial detainee appearing pro se, has submitted a one-paragraph handwritten document alleging that “Defendants acting under color of law” violated Plaintiff’s federal constitutional rights “to a fair and speedy trial” and against “illegal search and seizure.” Doc. No. 1. Having reviewed Plaintiff’s filing, and liberally construing it as a complaint under 42 U.S.C. § 1983, the Court finds that the pleading is deficient for the reasons outlined below.

First, Plaintiff’s complaint fails to separately identify the defendants, to provide a “short and plain statement” of the facts supporting his legal claims, or to include a decipherable “demand for the relief sought”—all as required by the Federal Rules of Civil Procedure and by this Court’s Local Rules and approved Pro Se Prisoner Civil Rights Complaint form. *See* Fed. R. Civ. P. 8(a); LCvR 9.2(a).

Second, Plaintiff has neither paid the required filing fee nor filed an application to proceed *in forma pauperis*. The filing fee for a § 1983 action is \$400, as noted on the Court’s current fee schedule. A plaintiff must either prepay this filing fee or submit an application requesting leave to proceed *in forma pauperis*—i.e., to proceed without full

prepayment and with a reduced filing fee of \$350. If a plaintiff seeks to proceed *in forma pauperis*, he or she must submit a sworn application on forms approved and supplied by this Court. LCvR 3.3(a); *see also* 28 U.S.C. § 1915(a)(1). An *in forma pauperis* applicant who is incarcerated is required by federal statute and by this Court’s Local Rules to provide the Court with certain information regarding his or her prison bank account(s), which must be certified by an appropriate prison official:

A prisoner seeking to bring a civil action . . . without prepayment of fees or security therefor, 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); *accord* LCvR 3.3(b). These documents must show that the plaintiff is financially “unable to pay [the required] fees or give security therefor.” *See* 28 U.S.C. § 1915(a)(1).

Third, this Court’s records show that Plaintiff had already “acquired three strikes pursuant to 28 U.S.C. § 1915(g)” before he conditionally filed this new action on May 10, 2017. Order Adopting R. & R. (Doc. No. 16) at 1, *Herbert R. Lewis Jr. v. State of Oklahoma*, No. CIV-1256-F (W.D. Okla. May 4, 2016); *see also* R. & R. (Doc. No. 12) at 3-6, *Lewis*, No. CIV-1256-F (W.D. Okla. Mar. 25, 2016). Accordingly, Plaintiff is advised that the Court cannot grant Plaintiff leave to proceed *in forma pauperis* in this action unless Plaintiff also shows that he “is under imminent danger of serious physical injury.” Order Adopting R. & R. at 1; *see* 28 U.S.C. § 1915(g), (h).

## CONCLUSION

IT IS ORDERED that Plaintiff—if he wishes to proceed with this lawsuit—shall cure the deficiencies designated above and submit an amended complaint on the Court’s approved form to the Clerk of the Court for filing no later than **June 21, 2017**. IT IS FURTHER ORDERED that Plaintiff shall either pay the \$400.00 filing fee or file a properly supported application seeking leave to proceed *in forma pauperis* no later than **June 21, 2017**. See LCvR 3.2, 3.3, 3.4; 28 U.S.C. § 1915(a)-(b), (g). The undersigned will recommend that this action be dismissed without prejudice if Plaintiff fails to comply with this Order.

The Clerk of the Court is directed to send the approved Pro Se Prisoner Civil Rights Complaint form and an *in forma pauperis* application (prisoner cases) form to Plaintiff at his address of record along with this Order.

IT IS SO ORDERED this 31st day of May, 2017.



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CHARLES B. GOODWIN  
UNITED STATES MAGISTRATE JUDGE