

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
NORTHERN DIVISION

DRAGO LUFKINS,

Plaintiff,

vs.

JOANN LABELLE, Nurse, Roberts County Jail, in her official capacity, JAMES FOSTER, Jail Administrator, Roberts County Jail, in his individual and official capacity, KYLAN KIRCHMEIER,¹ States Attorney, Roberts County, in his individual and official capacity, and KARLA JIMINEZ, in her official capacity,

Defendants.

1:23-CV-01007-CBK

MEMORANDUM OPINION
AND ORDER

Plaintiff was a state court pretrial detainee at the Roberts County, South Dakota, jail. He has filed a complaint pursuant to 42 U.S.C. § 1983 and a motion for leave to proceed *in forma pauperis* without the prepayment of the filing fee. Plaintiff did not submit the required prisoner trust account form from the institution, which requirement was set forth in the application plaintiff signed. The Clerk of Courts sent plaintiff another copy of that form on June 9, 2023. It was not returned by plaintiff.

I take judicial notice of the records of the South Dakota Circuit courts, available in the Court's eCourts database. At the time plaintiff filed this federal action, he was facing charges of possession of methamphetamine, 54CRI23-000016, and kidnapping, 54CRI21-000758, both in the Fifth Judicial Circuit, Roberts County, South Dakota. The methamphetamine charge was dismissed upon motion of the prosecutor on June 29, 2023.

¹ The Court takes judicial notice of the correct spelling of the name of the Roberts County States Attorney and his title.

He was sentenced on August 14, 2023, to 12 years imprisonment in the South Dakota State Penitentiary, with six years suspended, for kidnapping. Plaintiff has failed to keep this Court apprised of his current address.

Plaintiff has failed to prosecute this action. He did not return the prisoner trust account form required for this court to rule upon his application to proceed *in forma pauperis*, despite being twice notified to do so. He did not pay the filing fee. He further failed to keep the Court apprised of his current address. Good cause appearing,

IT IS ORDERED that this matter is dismissed for failure to prosecute.

DATED this 9th day of February, 2024.

BY THE COURT:



CHARLES B. KORNMANN
United States District Judge