

UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT



Everett McKinley Dirksen United States Courthouse
Room 2722 - 219 S. Dearborn Street
Chicago, Illinois 60604

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PLRA C.R. 3(b) FINAL ORDER

June 7, 2019

No. 19-1234	SCOTT PETERS, Plaintiff - Appellant v. YOUNG SUN KIM, Doctor, Defendant - Appellee
Originating Case Information:	
District Court No: 1:15-cv-07236 Northern District of Illinois, Eastern Division District Judge Philip G. Reinhard	

The pro se appellant was DENIED leave to proceed on appeal in forma pauperis by the appellate court on May 9, 2019 and was given fourteen (14) days to pay the \$505.00 filing fee. The pro se appellant has not paid the \$505.00 appellate fee. Accordingly,

IT IS ORDERED that this appeal is **DISMISSED** for failure to pay the required docketing fee pursuant to Circuit Rule 3(b).

IT IS FURTHER ORDERED that the appellant pay the appellate fee of \$505.00 to the clerk of the district court. The clerk of the district court shall collect the appellate fees from the prisoner's trust fund account using the mechanism of *Section 1915(b)*. *Newlin v. Helman*, 123 F.3d 429, 433 (7th Cir. 1997).

form name: c7_PLRA_3bFinalOrder(form ID: 142)

APPENDIX A

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ILLINOIS
WESTERN DIVISION

Scott Peters (M-52851),)
v. Plaintiff,) Case No. 15 C 7236
Dr. Young Sun Kim,) Judge Philip G. Reinhard
Defendant.)

ORDER

Plaintiff's motion for leave to appeal *in forma pauperis* [142] is denied. Plaintiff's motion for reconsideration pursuant to FED. R. CIV. P. 59(e) [136], motion to declare void judgement pursuant to FED. R. CIV. P. 60(b) [137], and petition for permission to appeal [138], are all stricken. The court certifies that the appeal is not taken in good faith and orders plaintiff to pay the appellate fees of \$505.00 by March 22, 2019, or the United States Court of Appeals for the Seventh Circuit may dismiss his appeal for nonpayment. The court instructs the Clerk of Court to send a copy of this order to the Court of Appeals' PLRA Attorney.

STATEMENT

Plaintiff Scott Peters, an Illinois state prisoner, brought this *pro se* civil rights action pursuant to 42 U.S.C. § 1983 against defendant Kim in connection with medical treatment provided by defendant Kim during plaintiff's detention at the McHenry County Adult Detention Facility.

On December 6, 2018, the court granted defendant Kim's motion for summary judgment, finding defendant Kim was not deliberately indifferent to plaintiff's medical needs during his detention. *See* [118].

Plaintiff has filed a notice of appeal challenging the court's ruling on defendant Kim's motion for summary judgment and seeks leave to proceed *in forma pauperis*. For the reasons stated in its summary judgment order, the court finds that this action does not raise a substantial issue meriting appellate review. The court remains satisfied that dismissal of this suit is supported by law and fact.

As plaintiff has articulated no grounds for appeal, the court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that the appeal is not in good faith and that no appeal should be taken. Under the rules of the U.S. Court of Appeals for the Seventh Circuit, if the district court certifies that an appeal is not taken in good faith, the appellant cannot prosecute the appeal *in forma pauperis* but rather must pay the appellate fees in full for the appeal to go forward. Consequently, plaintiff must pay the full \$505.00, or the Court of Appeals may dismiss his appeal for nonpayment. If plaintiff wishes to contest this court's finding that the appeal is not

(Appendix E)

taken in good faith, he must file a motion with the Court of Appeals seeking review of this court's certification within thirty days of service of this order. *See* FED. R. APP. P. 24(a)(5).

In sum, the court denies plaintiff's motion for leave to appeal *in forma pauperis*. The court orders plaintiff to remit to the Clerk of the Court the \$505.00 appellate fee by the above deadline. Plaintiff is responsible for ensuring payment of the filing fees and should ensure that the institution having custody of him transmits the necessary funds. Plaintiff's release or transfer to another facility will not relieve him of his obligation to ensure full payment of any accrued filing fees. Plaintiff remains under a continuing obligation to inform the clerk of this court in writing of any change of address within seven days.

Plaintiff should send payment to the Clerk of Court, United States District Court, 219 S. Dearborn St., Chicago, Illinois 60604, attn: Cashier's Desk, 20th Floor. Payment should include plaintiff's name, as well as the district court and appellate court case numbers assigned to this action.

The court further strikes plaintiff's motion for reconsideration [136] and motion to declare void judgement [137] as having been previously stricken by the court. *See* court's order striking motions [132]. The court also strikes plaintiff's petition for permission to appeal [138] as plaintiff has already filed a notice of appeal. *See* [133].

The court directs the Clerk of Court to send a copy of this order to the PLRA Attorney, United States Court of Appeals for the Seventh Circuit.

Date: 2/21/2019

ENTER:

Philip G. Reinhard
United States District Court Judge

Docketing to mail Notices. (LC)