

No. 20-

IN THE
SUPREME COURT OF THE UNITED STATES

Antonio Dewayne Hooks — PETITIONER
(Your Name)

VS.

Kayodi Atoki, Bethany Police Department, et al. — RESPONDENT(S)

MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS*

The petitioner asks leave to file the attached petition for a writ of certiorari without prepayment of costs and to proceed *in forma pauperis*.

Please check the appropriate boxes:

Petitioner has previously been granted leave to proceed *in forma pauperis* in the following court(s):

United States District Court for the Western District of Oklahoma

Petitioner has **not** previously been granted leave to proceed *in forma pauperis* in any other court.

Petitioner's affidavit or declaration in support of this motion is attached hereto.

Petitioner's affidavit or declaration is **not** attached because the court below appointed counsel in the current proceeding, and:

The appointment was made under the following provision of law: _____, or _____, or

a copy of the order of appointment is appended.

/s/ Virginia A. Seitz

(Signature)

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

ANTONIO DEWAYNE HOOKS,)
vs.)
Plaintiff,)
CIV-17-658-M
BETHANY POLICE DEPARTMENT, et al.,)
Defendants.)

ORDER GRANTING LEAVE TO PROCEED IN FORMA PAUPERIS

Plaintiff, a prisoner appearing *pro se*, has filed a motion to proceed *in forma pauperis* and supporting affidavit in conformance with 28 U.S.C. §1915(a), as amended by the Prison Litigation Reform Act of 1995, Pub. L. No. 104-134, 110 Stat. 1321 (1996). Having reviewed the motions (Docs. #5 and #7), the Court finds Plaintiff is entitled to proceed without full prepayment of the filing fee, and his motions are granted. However, pursuant to 28 U.S.C. §1915(b)(1), Plaintiff shall be required to pay the full \$350 filing fee as set forth hereafter.

IT IS HEREBY ORDERED that on or before the 17th day of July, 2017, Plaintiff pay an initial partial filing fee of \$4.43 which represents 20 percent of the average monthly deposits in Plaintiff's prison accounts for the six-month period immediately preceding the filing of the complaint. 28 U.S.C. §1915(b). Plaintiff is advised that unless by the date specified above he has either (1) paid the initial partial filing fee, or (2) shown cause in writing for the failure to pay, this action will be subject to dismissal without prejudice to refiling, and no fees or costs will be imposed or collected. Moreover, Plaintiff may voluntarily dismiss this action in accordance with Fed.R.Civ.P 41(a) on or before the 17th day of July, 2017, without incurring any fees or costs.

IT IS FURTHER ORDERED that after payment of the initial partial filing fee, Plaintiff shall make monthly payments of 20 percent of the preceding month's income credited to his prison account(s) until he has paid the total filing fee of \$350. 28 U.S.C. § 1915(b)(2). This Court will enter an order directing the agency having custody of Plaintiff to collect and forward such monthly payments to the Clerk of the Court until the filing fee is paid in full. 28 U.S.C. § 1915(b)(2). Interference by Plaintiff in the submission of these funds shall result in the dismissal of this action.

Plaintiff is advised that notwithstanding any filing fee, or any portion thereof, that may have been paid, the undersigned will recommend dismissal at any time all or any part of such complaint which (1) is frivolous or malicious; (2) fails to state a claim on which relief can be granted; or (3) seeks monetary relief from a defendant who is immune from such relief. 28 U.S.C. §§1915A; 1915(e). Plaintiff is further advised that such monthly payments will continue to be collected until full payment of the filing fee has been received by the Court even after disposition of the case and regardless of whether relief is granted or denied.

IT IS FURTHER ORDERED that the Clerk of the Court shall not issue process until further order of the Court, and the Clerk shall send a copy of this Order to the agency having custody of Plaintiff.

SO ORDERED this 28th day of June, 2017.



GARY M. PURCELL
UNITED STATES MAGISTRATE JUDGE

FILED

United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

April 21, 2020

Christopher M. Wolpert
Clerk of Court

ANTONIO DEWAYNE HOOKS,

Plaintiff - Appellant,

v.

KAYODI ATOKI, BETHANY POLICE
DEPARTMENT, et al.,

Defendants - Appellees.

No. 19-6093
(D.C. No. 5:17-CV-00658-D)
(W.D. Okla.)

ORDER

Before PHILLIPS, Circuit Judge.

The court has determined that counsel should be appointed for Appellant pursuant to the court's Plan for Appointment of Counsel in Special Civil Appeals ("Plan"). The court has also determined that supplemental briefs should be filed, and oral argument is warranted.

As a preliminary matter, based on the district court's July 25, 2019 order granting leave to appeal *in forma pauperis*, the court finds that Appellant is eligible for appointment of counsel under the criteria set forth in the Plan. Accordingly, the court appoints Daniel S. Brookins of Sidley Austin LLP to represent Appellant, Antonio

Dewayne Hooks, for the remainder of the appeal. Pursuant to the terms of the Plan, Mr. Brookins and Sidley Austin LLP accept this appointment on a *pro bono* basis¹.

All future filings in connection with this appeal will be served on Mr. Brookins, rather than on Appellant. Mr. Brookins shall file an entry of appearance within ten days from the date of this order. A record on appeal has been filed in this court pursuant to Tenth Cir. R. 11.2(B), and Appellees have supplemented that record via the filing of appendices with their briefs. Within twenty days of the date of this order, any party may file such motions to supplement the record on appeal as may be needed. No appendix need be filed.

Appellant's supplemental opening brief shall be filed and served on or before June 1, 2020 and may address any issues Mr. Brookins determines warrant additional briefing. Appellees' supplemental response brief(s) shall be filed and served within 30 days of service of Appellant's supplemental opening brief. Any supplemental reply brief of Appellant shall be filed and served within 21 days of service of Appellees' supplemental response briefs. The parties' supplemental briefs shall comply with all Federal Rules of Appellate Procedure and Tenth Circuit Local Rules applicable to submitting primary briefs.

After the supplemental briefs have been filed, this matter will be set for oral argument. The parties will be informed of the date, time and location of oral argument in due course.

¹ Pursuant to the Plan, this appointment is *pro bono* as to both services and expenses. See Addendum II to the Tenth Circuit Rules.

The appointment of counsel is limited to representing Appellant in proceedings before this court. The appointment would extend to any proceedings in the United States Supreme Court but only if, in Mr. Brookins' judgment, the filing of a petition seeking a writ of certiorari is warranted. However, the appointment would not extend to any additional proceedings on remand in the district court.

The Clerk is directed to send a copy of this order to all counsel currently of record, to Appellant, and to Mr. Brookins.

Entered for the Court



CHRISTOPHER M. WOLPERT, Clerk