

FILED

United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

September 5, 2017

Elisabeth A. Shumaker
Clerk of Court

ANTHONY LEROY DAVIS,

Plaintiff - Appellant,

v.

BARACK HUSSAIN OBAMA, et al.,

Defendants - Appellees.

No. 17-3155
(D.C. No. 5:16-CV-03204-SAC-DJW)
(D. Kan.)

ORDER

This matter is before the court on appellant Anthony Leroy Davis's failure to pay the \$505.00 appellate filing fee to the district court as this court's August 7, 2017 order required.

By way of background, this court entered an order following the opening of this appeal and directed Mr. Davis to show cause why: (1) the court should not dismiss this appeal due to Mr. Davis's failure to prepay the entire appellate filing fee as 28 U.S.C. § 1915(g) requires; or (2) the provisions of the Prison Litigation Reform Act (PLRA) do not apply to this proceeding. On August 4, 2017, this court received from Mr. Davis a document captioned as a *Request Leave to File Motion for Enlargement Fed. R. Civ. P. 6[b]* ("Mr. Davis's August 4, 2017 Request"), in which he claimed imminent danger as follows: "Adequate foods, adequate medication, care and treatments for my chronic-illness, by prison officials [fraud] and knowingly [sic] withholding adequate foods and

medications for [my] diabetes, prostatitis, hypertension, and liberty, their mention ‘deprivals’ of penology BLACK criminal-punishments shall lead to further risk of stroke, aneurysm, coma, or death’s!”

On August 7, 2017, this court held that PLRA applied to this appeal and that Mr. Davis had not shown that the court should apply the statutory “imminent danger” exception to the prepayment requirement in this case. Accordingly, the court ordered Mr. Davis to pay the \$505.00 appellate filing fee to the district court by August 28, 2017, and advised that, if the district court did not receive full payment on or before that date, this court would dismiss Mr. Davis’s appeal for lack of prosecution. *See* 28 U.S.C. § 1915(g); 10th Cir. R. 3.3(B), 10th Cir. R. 42.1.

Instead of paying the \$505.00 appellate filing fee to the district court, however, Mr. Davis filed a third application in that court for leave to proceed *in forma pauperis* on appeal, which application includes similar allegations of imminent danger as those included in his August 4, 2017 Request and rejected in this court’s August 7, 2017 order.

Mr. Davis has not complied with the court’s August 7, 2017 order and the time for doing so has expired. Accordingly, the court dismisses Mr. Davis’s appeal for lack of prosecution. *See* 10th Cir. R. 3.3(B) and 42.1.

A copy of this order shall stand as and for the mandate of the court.

Entered for the Court
ELISABETH A. SHUMAKER, Clerk



by: Lisa A. Lee
Counsel to the Clerk