

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

SEAN ANTHONY RIKER,

Plaintiff,

v.

TAYLOR ANNE RIKER,

Defendant.

ORDER

11-cv-602-bbc

This case was closed on November 22, 2011, when I granted plaintiff Sean Riker's motion to voluntarily dismiss it. Now, plaintiff has filed a document in which he states that his institution's business office has been deducting funds from his account to pay filings fees when there is less than \$10 in his account, as required by 28 U.S.C. § 1915(b)(2). He asks the court to hold the Wisconsin Secure Program Facility in contempt of a court order and for the court to reissue the order assessing his initial partial payment "in layman's terms so they will understand." He requests, in the alternative, for the court to order a hold on plaintiff's payments until he can pay the balance in full. I will construe plaintiff's request as a motion to order the Wisconsin Secure Program Facility to comply with the payment collection method outlined in 28 U.S.C. § 1915(b)(2).

I will deny plaintiff's motion because it is not properly brought as part of this lawsuit against defendant Taylor Riker. A person who is not a party to a proceeding may be held in contempt only if he or she either abets the opposing party or is legally identified with it. S.E.C. v. Homa, 514 F.3d 661, 674 (7th Cir. 2008); Stotler v. Able, 870 F.2d 1158, 1164 (7th Cir. 1989). The court cannot find third party prison officials in contempt of a court order because those officials are not "in active concert or participation" with defendant. To the extent that plaintiff is alleging that the institution is violating the in forma pauperis statute, such an allegation must be raised in a separate lawsuit.

ORDER

IT IS ORDERED that plaintiff Sean Riker's motion to order the Wisconsin Secure Program Facility to comply with the payment collection method outlined in 28 U.S.C. § 1915(b)(2), dkt. #17, is DENIED.

Entered this 21st day of February, 2012.

BY THE COURT:
/s/
BARBARA B. CRABB
District Judge