

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

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JOHN ERIC SANDLES,

Petitioner,

v.

JOHN C. SHABAZ,

Respondent.

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ORDER

04-C-276-C

This case was closed on May 27, 2004, after petitioner failed to pay the \$150 fee for filing the complaint. Petitioner's payment of the filing fee was essential, because he is ineligible for pauper status under 28 U.S.C. § 1915(g). Now petitioner has filed a motion that I construe as a motion pursuant to Fed. R. Civ. P. 59 to alter or amend the order of dismissal. The motion will be denied.

In his motion, petitioner suggests that I may have been wrong in counting Sandles v. Clark, 96-C-696, decided June 17, 1996 (M.D. Pa.) as a previous civil action that was dismissed as legally frivolous and thus warrants a strike. He states that he believes he challenged his conviction in that action, "if he remembers correctly." However, petitioner has not submitted proof that this action was a habeas corpus action that should not have

been counted as one of his strikes. Indeed, the electronic docket refers to petitioner's original pleading as a complaint, not a petition for a writ of habeas corpus, and shows that the action was dismissed on the ground that petitioner's claims were legally frivolous.

It is not surprising that petitioner would have difficulty remembering which of his cases raised habeas corpus claims and which did not. The U.S. Party Case Index, or PACER system, shows that since 1994, petitioner has filed 42 pleadings in various federal district courts. Thirteen of these cases have been habeas corpus actions brought under 28 U.S.C. § 2241 and two have been motions for post-conviction relief brought pursuant to 28 U.S.C. § 2255. The remaining 27 cases have been civil actions. In the vast majority of these actions, petitioner was denied leave to proceed in forma pauperis at the outset, presumably because his claims were legally meritless. See, e.g., Sandles v. Racine Co. Jail, et al., 94-CV-464, dismissed 7/13/94 (E.D. Wis.); Sandles v. Lowe, 94-CV-465, dismissed 7/13/94 (E.D. Wis.); Sandles v. U.S. Marshal, 94-CV-466, dismissed 7/13/94 (E.D. Wis.); Sandles v. USP Terre Haute, et al., 94-CV-1187, dismissed 12/28/94 (E.D. Wis.); Sandles v. USP-Terre Haute, 95-CV-127, dismissed 2/3/95 (E.D. Wis.); Sandles v. Schneider, et al., 95-CV-1057, dismissed 11/13/95 (E.D. Wis.); Sandles v. U.S.A., et al., 95-CV-1058, dismissed 10/18/95 (E.D. Wis.); Sandles v. U.S.A., 95-CV-1059, dismissed 10/18/95 (E.D. Wis.); Sandles v. U.S.A., et al., 96-CV-484, dismissed 7/22/96 (E.D. Wis.); Sandles v. Crockett, 96-CV-485, dismissed 7/17/96 (E.D. Wis.); Sandles v. Clark, 96-CV-486, dismissed, 7/22/96 (E.D. Wis.);

Sandles v. Clark, et al., 96-CV-487, dismissed 7/17/96 (E.D. Wis.); Sandles v. Woods, 96-CV-488, dismissed 7/17/96 (E.D. Wis.); and Sandles v. Hawk, et al., 96-CV-489, dismissed 7/17/96 (E.D. Wis.).

In the absence of documentation from petitioner that Sandles v. Clark was a habeas corpus action and that none of the cases listed above were dismissed on the ground that the complaint lacked legal merit, I conclude that there is no reason to alter this court's May 6, 2004 determination that petitioner is not eligible for pauper status under 28 U.S.C. § 1915 because he has struck out or the May 27, 2004 dismissal of this action for petitioner's failure to pay the filing fee.

Accordingly, IT IS ORDERED that petitioner's motion to alter or amend the final order entered in this case on May 27, 2004, is DENIED.

Entered this 11th day of June, 2004.

BY THE COURT:

BARBARA B. CRABB  
District Judge