

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

TRAVIS E. BLANKS,

Plaintiff,

v.

ORDER

PHIL KINGSTON, CURT JANSSEN,
ANGELIA KROLL, LINDA ALSUM
O'DONOVAN and J. MUENCHOW

05-C-170-S

Defendants.

Upon receipt of plaintiff's partial filing fee in the amount of \$1.38 the Court addresses the merits of his initial complaint. According to 28 U.S.C. § 1915(b)(2), the institution's financial officer is authorized to deduct monthly payments from plaintiff's account until the \$250.00 filing fee is paid in full.

Initially plaintiff moves for a new judge. This motion will be denied as this Court is neither biased nor prejudiced against the plaintiff. See 28 U.S.C. §§ 144 and 455.

Plaintiff alleges that he is incarcerated at the Waupun, Correctional Institution, Waupun, Wisconsin. He further alleges that he was denied due process when his conduct reports were upgraded from minor to major violations.

In Zinermon v. Burch, 439 U.S. 113 (1990), the United States Supreme Court held that a deprivation of an individual's liberty

interest does not state a claim under the Fourteenth Amendment due process clause if adequate state post deprivation remedies exist. Plaintiff has adequate state post deprivation remedies including administrative remedies, a state petition for a writ of habeas corpus and a state court action for damages. Accordingly, plaintiff's complaint must be dismissed without prejudice for failure to state a claim for relief under federal law.

Plaintiff is advised that in any future proceedings in this matter he must offer argument not cumulative of that already provided to undermine this Court's conclusion that his claim must be dismissed. See Newlin v. Helman, 123 F.3d 429, 433 (7th Cir. 1997).

ORDER

IT IS ORDERED that plaintiff's motion for a new judge is DENIED.

IT IS FURTHER ORDERED that plaintiff's complaint and all claims contained therein is DISMISSED without prejudice for failure to state a claim for relief under federal law.

Entered this 11th day of April, 2005.

BY THE COURT:

/s/

JOHN C. SHABAZ
District Judge