

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

SHAWN DON JOHNSON,

Plaintiff,

v.

ORDER

MATTHEW FRANKS,

06-C-534-S

Defendants.

Upon receipt of plaintiff's partial filing fee in the amount of \$7.76, the Court addresses the merits of plaintiff's 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 \$350.00 filing fee is paid in full.

Plaintiff alleges that while he was incarcerated at the Fox Lake Correctional Institution he was denied permission to go to the bathroom when he wanted. He further alleges that he was given a conduct report when he protested the officer's denial of permission.

Plaintiff has not alleged that defendant Matthew Franks had any personal involvement in this alleged incident. To state a claim under 42 U.S.C. § 1983 plaintiff must allege that the named defendant was personally involved in the alleged deprivation of his constitutional rights. Plaintiff has not alleged sufficient facts

to support a claim for relief under federal law. Accordingly, his complaint and all claims contained therein will be dismissed without prejudice.

Plaintiff also moves to have the remainder of his filing fee paid from his release account. This request will be denied because plaintiff's release account is for his use after release from prison.

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 complaint and all claims contained therein is DISMISSED without prejudice for failure to state a claim under federal law.

IT IS FURTHER ORDERED that plaintiff's motion to pay his filing fee from his release account is DENIED.

IT IS FURTHER ORDERED that judgment be entered DISMISSING plaintiff's complaint and all claims contained therein without prejudice.

Entered this 16th day of October, 2006.

BY THE COURT:

s/
JOHN C. SHABAZ
District Judge