

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

CRAIG MILLER,

Plaintiff,

v.

ORDER

PHIL KINGSTON, KENNETH R. MORGAN,
GREGORY N. DUTCH and DAVID LEEPER,

06-C-728-S

Defendants.

Upon receipt of plaintiff's partial filing fee in the amount of \$11.69, 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 labels his pleading a motion for declaratory judgment but requests monetary relief. It appears he is asking this Court to overturn its dismissal of his petition for a writ of habeas corpus which was entered on April 3, 2002. He appealed that decision and his request for a certificate of appealability was denied by the United States Court of Appeals on August 7, 2002. Plaintiff is not entitled to a declaratory judgment in this matter. Accordingly, his complaint will be dismissed 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 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 for appointment of counsel is DENIED as moot.

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

Entered this 21st day of December, 2006.

BY THE COURT:

S/

JOHN C. SHABAZ
District Judge