

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

JAQUAY HILER,

Petitioner,

v.

CARI J. TAYLOR, Deputy Warden,

Respondent.

ORDER

08-cv-333-slc

Because Judge Shabaz is on a medical leave of absence from the court for an indeterminate period, the court is assigning 50% of its caseload automatically to Magistrate Judge Stephen Crocker. It is this court's expectation that the parties in a case assigned to the magistrate judge will give deliberate thought to providing consent for the magistrate judge to preside over all aspects of their case, so as to insure that all cases filed in the Western District of Wisconsin receive the attention they deserve in a timely manner. At this early date, consents to the magistrate judge's jurisdiction have not yet been filed by all the parties to this action. Therefore, for the sole purpose of issuing this order, I am assuming jurisdiction over the case.

This is a proposed civil action requesting that the court require respondent to remove

the “20/20 Neural Chip” implanted in petitioner’s body. Petitioner Jaquay Hiler is presently confined at the Jackson Correctional Institution in Black River Falls, Wisconsin. He asks for leave to proceed under the in forma pauperis statute, 28 U.S.C. § 1915. From the financial affidavit petitioner has given the court, I conclude that he is unable to prepay the full fee for filing this lawsuit. Petitioner has paid the initial partial payment of \$7.67 required under § 1915(b)(1).

Because petitioner is a prisoner, his complaint must be screened pursuant to 28 U.S.C. § 1915(e)(2). In performing that screening, the court must construe the complaint liberally. Haines v. Kerner, 404 U.S. 519, 521 (1972). However, it must dismiss the complaint if, even under a liberal construction, it is legally frivolous or malicious, fails to state a claim upon which relief may be granted or seeks money damages from a defendant who is immune from such relief. 42 U.S.C. § 1915(e).

A court may also dismiss a prisoner’s complaint if it is factually frivolous. Denton v. Hernandez, 504 U.S. 25, 32 (1992) (citing Neitzke v. Williams, 490 U.S. 319, 327 (1989)). A complaint is factually frivolous “when the facts alleged rise to the level of the irrational or the wholly incredible.” Id. at 33. Petitioner’s allegations fit that description.

Petitioner alleges that respondent is ignoring that the Department of Corrections had a “Security 20/20 Neural Chip” implanted in his body. Petitioner alleges further that he has more than one such implant in his body and that the prison psychiatrist who diagnosed him

as delusional regarding the implant is really just covering up the fact that the Department of Corrections uses these neural implants to control prisoners that are a threat to the prison system. Petitioner attached 35 pages of inmate complaints and psychiatric reports relating to petitioner's belief that he has neural chips implanted in his body. The documents establish that the Department of Corrections has been trying to help petitioner deal with his delusion, even to the point of providing him with an MRI to show him that there are no implants in his brain. Petitioner's allegations that he has several neural chips are clearly "irrational" and "wholly incredible" and his complaint will be dismissed as factually frivolous.

ORDER

IT IS ORDERED that:

1. Petitioner Jaquay Hiler's request for leave to proceed in forma pauperis is DENIED and this case is DISMISSED with prejudice for petitioner's failure to state a claim upon which relief may be granted;

2. The unpaid balance of petitioner's filing fee is \$342.33; this amount is to be paid in monthly payments according to 28 U.S.C. § 1915(b)(2);

3. A strike will be recorded against petitioner pursuant to § 1915(g); and
4. The clerk of court is directed to close the file.

Entered this 18th day of July, 2008.

BY THE COURT:

/s/

BARBARA B. CRABB
District Judge