

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

CLARENCE AUSTIN,

Plaintiff,

v.

OMEGA SCHOOL, DANE COUNTY JAIL
and JAIL LIBRARY BRANCH,

Defendants.

ORDER

11-cv-201-bbc

In this proposed civil action, plaintiff Clarence Austin asks for leave to proceed under the in forma pauperis statute, 28 U.S.C. § 1915. From the financial affidavit plaintiff has given the court, I conclude that plaintiff is unable to prepay the fee for filing this lawsuit.

However, before plaintiff may proceed in forma pauperis, I must determine whether his action is frivolous or malicious, fails to state a claim on which relief may be granted or seeks money damages against a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2). In addressing any pro se litigant's complaint, the court must read the allegations of the complaint generously. Haines v. Kerner, 404 U.S. 519, 521 (1972). Unfortunately for plaintiff, even under a generous reading of his complaint, I must deny him leave to proceed because his complaint is virtually incomprehensible. For instance, the beginning of plaintiff's complaint reads as follows:

Now that you got got moore than I could could have been able to handle you

got me out on the line of insanity and do what you suppose to do a lot more help of mine now that I have to get my house out of my own life now that you have to go now that you have to murder a lot of money and pot of honey in the meanwhile how that I have to look at your hands or good looks now my got to look at your drink and your soap now look at your sandwich and food but now look at your sandwich sandwich of luck now look at your house and new look now that we have to keep up with.

This is not the first time that plaintiff has filed a complaint in this court that has been extremely difficult to follow. E.g., Austin v. Dane Capital, case no. 11-cv-114-bbc (W.D. Wis. Mar. 16, 2011). Usually, I might ask plaintiff to submit an amended complaint that complies with Fed. R. Civ. P. 8, which requires that a complaint include “a short and plain statement of the claim showing that the pleader is entitled to relief.” However, in his previous cases, plaintiff has repeatedly failed to submit amended complaints when asked to do so by this court. At any rate, the flaws in this complaint go beyond a mere failure to state a claim in concise fashion—there is nothing in the complaint that comes close to stating a valid claim in a federal lawsuit. In addition, plaintiff continues to list as defendants entities such as the Dane County jail that cannot be sued under 42 U.S.C. § 1983, despite having been warned against doing so.

Accordingly, I will immediately dismiss this action without giving plaintiff an opportunity to amend his complaint. In addition, plaintiff should be aware that his repeated submission of virtually incomprehensible complaints, failure to comply with court orders requesting that he amend his complaints and practice of attempting to sue entities that cannot be sued waste judicial resources. In an effort to avoid further waste of these resources, I am directing the clerk of court to route directly to chambers without docketing

any further pleadings plaintiff files in this court. If the pleading is comprehensible and lists defendants that are capable of being sued, I will return it to the clerk's office with instructions to open a new file. If the pleading suffers from the same problems as plaintiff's other recent complaints, the pleading will be placed in a miscellaneous file and given no further consideration.

ORDER

IT IS ORDERED that:

1. Plaintiff Clarence Austin's request for leave to proceed in forma pauperis is DENIED and this case is DISMISSED.
2. The clerk of court is directed to close the file.

Entered this 26th day of April, 2011.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge