

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

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TERRANCE GRISSOM,

Plaintiff,

v.

DAVID JAMES, KIM SHANNONBERG,  
MICHAEL MEISNER, OFFICER MARTIN,  
LT. BOODRY, OFFICER HOPPER,  
KURT SCHWEBKE and CPT. HIGBEE,

Defendants.

ORDER

11-cv-703-slc<sup>1</sup>

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Plaintiff Terrance Grissom has filed a proposed complaint alleging that prison officials at the Columbia Correctional Institution have violated his rights in several ways. Plaintiff has filed two proposed amended complaints. I will consider his latest pleading, dkt. #8, as the operative pleading in this case.

Plaintiff has struck out under 28 U.S.C. § 1915(g), which means that he cannot obtain indigent status under § 1915 in any suit he files during the period of his incarceration unless he alleges facts in his complaint from which an inference may be drawn that he is in imminent danger of serious physical injury. After considering plaintiff's allegations, I will deny plaintiff's motions for leave to proceed in forma pauperis because he fails to raise allegations that qualify under the imminent danger standard.

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<sup>1</sup> I am assuming jurisdiction over this case for the purpose of issuing this order.

## ALLEGATIONS OF FACT

Plaintiff Terrance Grissom is a prisoner at the Green Bay Correctional Institution. (Plaintiff's most recent submission in another case in this court, case no. 12-cv-45-bbc, indicates that plaintiff now resides at the Green Bay prison. It is unclear when he was transferred there.) The allegations in plaintiff's complaint pertain to events that occurred at the Columbia Correctional Institution while plaintiff was housed there.

On July 18, 2011, while plaintiff was handcuffed and standing in a hallway, defendant Officer David James struck plaintiff in the mouth, causing plaintiff to fall to the ground. James continued to hit plaintiff in the mouth. Defendant Security Supervisor Kim Shannonberg and other unknown officers were present but did nothing. The officers placed tight shackles on plaintiff while choking him. Plaintiff was taken to a medical examination and then to a segregation unit, where he was placed in an extremely cold observation unit without his clothes. The beating caused plaintiff to lose at least one tooth, and he bled profusely.

The next day, plaintiff was "was lifted with goo[d] behavior." (I understand this to mean that he was removed from the segregation cell.) Security Director Janel Nickel "placed a lot of arbitrary . . . restrictions" on him that amounted to torture.

On December 7, 2011, plaintiff sent a letter to defendant Michael Meisner, the warden of the Columbia Correctional Institution, informing him about defendant James's violent actions. Meisner wrote back to plaintiff, stating that he had forwarded a copy of his letter to Nickel for followup. Meisner did not forward the letter to the district attorney's

office.

On December 21, 2011, defendant Officer Hopper turned off the water running to plaintiff's toilet, resulting in the whole tier smelling of feces. Plaintiff asked defendant Security Supervisor Boodry to turn the water back on but he declined to do so. When plaintiff requested grievance forms from Boodry, he responded by stating that he would see to it that plaintiff never got those forms while he was at the Columbia Correctional Institution.

Plaintiff asked defendant Boodry for antacid tablets for his extremely upset stomach. (It is unclear when plaintiff made this request but from the placement of this allegation in plaintiff's complaint, it appears that his request for antacid tablets was part of the same conversation as his requests to have his water turned back on and for grievance forms.) Boodry replied, "I don't care—I hope you die, your request is denied" and walked away.

Also on December 21, 2011, plaintiff asked defendant Officer Martin to call the duty psychiatrist because plaintiff was having suicidal thoughts. Plaintiff has a diagnosis of bipolar disorder. Martin refused to call the psychiatrist and also stopped plaintiff from seeking help from another inmate. Martin will not provide plaintiff any paper to write to the courts, saying "I don't care if you kill (or) hurt yourself." Plaintiff cut his own arms and suffered a panic attack.

On December 29, 2011, plaintiff was in the segregation unit. Defendants Kurt Schwebke, head of the psychology department, and Security Captain Higbee approached plaintiff's cell and stated, "Now look black boy if you failed to be interviewed come talk with

us in the interview room, we will suit up a team of prison guards, we will kill your black ass with a lot of medicine in a syringe, we got a court order to force you to take medication.” Plaintiff refused to talk with Schwebke and Higbee, so Higbee ordered the upper trap to be opened and shot plaintiff with a stun gun four times. Plaintiff fell to the ground, requesting medical attention. Schwebke and Higbee walked away, laughing. Higbee then “turned off completely air circulation to all of the rooms.”

## DISCUSSION

Plaintiff seeks leave to proceed in forma pauperis in this case under 28 U.S.C. § 1915. However, as I stated above, plaintiff has struck out under 28 U.S.C. § 1915(g), which provides:

In no event shall a prisoner bring a civil action or appeal a judgment in a civil action or proceeding under this section if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.

On at least three prior occasions, plaintiff has been denied leave to proceed in forma pauperis in lawsuits that were legally frivolous. Grissom v. Rauschenbach; 04-cv-1252 (E.D. Wis. Feb. 9, 2005); Grissom v. Champagne; 04-cv-1251 (E.D. Wis. Feb. 9, 2005); Grissom v. Gordon; 04-cv-1249 (E.D. Wis. Feb. 9, 2005). Each of these cases was dismissed in its entirety.

To meet the imminent danger requirement of 28 U.S.C. § 1915(g), the alleged threat

or prison condition must be real and proximate. Ciarpaglini v. Saini, 352 F.3d 328, 330 (7th Cir. 2003) (citing Lewis v. Sullivan, 279 F.3d 526, 529 (7th Cir. 2002)). Allegations of past harm do not suffice. The harm must be imminent or occurring at the time the court considers his request for leave to proceed in forma pauperis. See id. (citing Heimermann v. Litscher, 337 F.3d 781 (7th Cir. 2003)).

For several reasons, plaintiff's allegations do not qualify under the imminent danger standard. First, his allegations refer to incidents of past harm rather than ongoing harm. In addition, plaintiff is no longer incarcerated at the Colombia Correctional Institution. To the extent that plaintiff requests to be transferred to a mental health facility, he does not include allegations concerning his mental health needs other than the December 2011 incident in which he felt suicidal and cut his arms. He does not explain whether this lack of care has been a continuing problem, particularly at his new place of confinement, the Green Bay Correctional Institution. Therefore, in order to proceed with this case, plaintiff will have to pay the full \$350 filing fee.

Moreover, even if some of plaintiff's allegations had qualified under the imminent danger standard, I could not proceed to screen those claims because plaintiff includes many other allegations that either do not meet the imminent danger standard; belong in separate lawsuits because they pertain to unrelated events; or suffer from both problems. For instance, plaintiff's allegation that defendant Hopper shut off the water to his toilet does not meet the imminent danger standard and does not seem to be related to plaintiff's claims about excessive force or failure to treat his mental health problems. Plaintiff does not

explain how the July 2011 beating at the hands of defendant James is related to the December 2011 excessive force by defendants Schwebke or Higbee. Because almost every claim brought by plaintiff refers to a different set of defendants, plaintiff will not be able to join his claims in one lawsuit under Fed. R. Civ. P. 20. Rule 20 states that a plaintiff may join claims against different defendants in the same lawsuit only if the claims arise “out of the same transaction, occurrence, or series of transactions or occurrences” and present questions of law or fact common to all of the claims. Id.; see also George v. Smith, 507 F.3d 605, 607 (7th Cir. 2007). Thus, even if plaintiff chooses to pay the full \$350 filing fee for this case, he will have to inform the court which claim or related claims he would like to pursue in this particular lawsuit, and bring any of his other claims in separate lawsuits.

#### ORDER

IT IS ORDERED that

1. Plaintiff Terrance Grissom’s motions for leave to proceed in forma pauperis in this action, dkt. ##2 & 11, are DENIED because plaintiff’s allegations do not qualify under the imminent danger exception to 28 U.S.C. § 1915(g).

2. Should plaintiff wish to continue with a claim, he may have until May 14, 2012 to identify for the court which claim he wishes to pursue AND submit a check or money order made payable to the clerk of court in the amount of \$350.

3. If plaintiff fails to respond to this order by May 14, 2012, I will enter an order dismissing the lawsuit without prejudice as it presently exists for plaintiff's failure to

prosecute.

Entered this 30th day of April, 2012.

BY THE COURT:  
/s/  
BARBARA B. CRABB  
District Judge