

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

JESSIE WILLIAMS,

Plaintiff,

v.

C.O. STANIEC,

Defendant.

ORDER

12-cv-691-bbc

In this proposed civil action for monetary relief, plaintiff Jessie Williams contends that defendant Staniec, a corrections officer at the Waupun Correctional Institution, used excessive physical force on him in violation of his rights under the Eighth Amendment by giving plaintiff an angry look and throwing a milk carton at him. Plaintiff is proceeding under the in forma pauperis statute. 28 U.S.C. § 1915. In a previous order, Magistrate Judge Crocker concluded that plaintiff has no means to make even a partial payment of the fee for filing this lawsuit. Because plaintiff is a prisoner, I must screen his complaint and dismiss any portion that is legally frivolous, malicious, fails to state a claim upon which relief may be granted or asks for money damages from a defendant who by law cannot be sued for money damages. 28 U.S.C. § 1915A.

This is the second time plaintiff has attempted to bring a claim premised on defendant Staniec's throwing a milk carton at him on May 2, 2007. In case number 11-cv-436-bbc, I dismissed plaintiff's claim against defendant based on these allegations, stating that "[n]othing about these allegations suggests that Staniec applied any significant force 'maliciously and

sadistically for the very purpose of causing harm,” as required by the standard for excessive force claims set forth in Hudson v. McMillian, 503 U.S. 1, 6-7 (1992). Dkt. #10, in 11-cv-436-bbc.

I am dismissing plaintiff’s claim against defendant in this case for the same reason.

ORDER

IT IS ORDERED that

1. In accordance with 28 U.S.C. §§ 1915(e)(2) and 1915A, plaintiff Jesse Williams’s complaint is DISMISSED for his failure to state a claim upon which relief may be granted.

2. Plaintiff is obligated to pay the unpaid balance of his filing fees in monthly payments as described in 28 U.S.C. § 1915(b)(2). The clerk of court is directed to send a letter to the warden of plaintiff’s institution informing the warden of the obligation under Lucien v. DeTella, 141 F.3d 773 (7th Cir. 1998), to deduct payments from plaintiff’s trust fund account until the filing fees have been paid in full.

3. A strike will be recorded in accordance with 28 U.S.C. § 1915(g).

4. The clerk of court is directed to enter judgment in favor of defendant C.O. Staniec and close this case.

Entered this 26th day of October, 2012.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge