

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

TERRANCE GRISSOM,

Plaintiff,

v.

M. KULUIKE,

Defendant.

OPINION & ORDER

14-cv-590-jdp

Pro se plaintiff Terrance Grissom, a prisoner currently incarcerated at the Waupun Correctional Institution, has filed this proposed civil lawsuit under 42 U.S.C. § 1983 alleging that defendant M. Kuluike, the librarian at the Green Bay Correctional Institution, violated plaintiff's constitutional right to access the court system by denying his requests to photocopy legal documents. In addition, plaintiff has filed a request for leave to proceed *in forma pauperis*. The request will be denied, because plaintiff does not qualify for *in forma pauperis* status under 28 U.S.C. § 1915(g).

Section 1915(g) reads as follows:

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 brought actions that were dismissed because they were frivolous, malicious, or failed to state a claim upon which relief may be granted. *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).

Therefore, he cannot proceed *in forma pauperis* in either of his cases unless I find that he has alleged that he is in imminent danger of serious physical injury.

To meet the imminent danger requirement of 28 U.S.C. § 1915(g), a prisoner must allege a physical injury that is imminent or occurring at the time the complaint is filed¹ and show that the threat or prison condition causing the physical injury is real and proximate. *Ciarpaglini v. Saini*, 352 F.3d 328, 330 (7th Cir. 2003) (citing *Heimermann v. Litscher*, 337 F.3d 781 (7th Cir. 2003); *Lewis v. Sullivan*, 279 F.3d 526, 529 (7th Cir. 2002)). Plaintiff's only allegations in this case are that the prison librarian would not photocopy certain legal materials for him, which does not raise the threat of any physical harm to plaintiff. Because plaintiff's allegations do not meet the requirements of the imminent danger exception to § 1915(g), he cannot proceed *in forma pauperis*.

Plaintiff may still choose to pursue this case as a paying litigant. If he chooses to do so, he must submit a check or money order made payable to the clerk of court in the amount of \$400 no later than February 2, 2015. If he does this, the court will then be required to screen his complaint under 28 U.S.C. § 1915A, and dismiss his case if the complaint is frivolous, malicious, fails to state a claim upon which relief may be granted, or seeks monetary relief from a defendant who is immune from such relief.

If plaintiff does not pay the \$400 filing fee by the deadline, the court will assume that he does not want to pursue this action and the clerk of court will close this file. If this

¹ This means that plaintiff does not lose the ability to proceed on "imminent danger" claims by virtue of his transfer from GBCI *after* he filed the complaint.

happens, plaintiff will still owe the \$400 filing fee and he must pay it as soon as he has the means to do so. *Newlin v. Helman*, 123 F.3d 429, 436-437 (7th Cir. 1997).

Finally, I note that beyond plaintiff's three strikes, he has been a frequent litigator in this court, filing over 60 cases since 1990, with five currently pending. He was similarly prolific in the Eastern District of Wisconsin, filing approximately 40 cases between 1992 and 2006 before that court barred plaintiff from filing future lawsuits until he paid the outstanding balance of his filing fees. *Grissom v. Mays*, case no. 06-cv-677-JPS (June 21, 2006). Given's plaintiff prolific filing history and inability to conform his pleadings to meet the imminent danger standard, I conclude that it is appropriate to enter a sanction somewhat similar to the Eastern District's.

Thus, until plaintiff has paid in full the outstanding fees in all civil actions he has filed in this circuit, any future complaint filed by plaintiff will be routed directly to chambers before opening it in a new case. If a cursory review of the complaint fails to show that plaintiff is in imminent danger of serious physical harm at his current place of confinement, the pleading will be returned to him. If plaintiff does meet the imminent danger requirement, the complaint will be opened in a new case. This order does not apply to criminal cases or habeas petitions, and may be re-examined in two years upon plaintiff filing a motion to modify or rescind the order.

ORDER

IT IS ORDERED that:

1. Plaintiff Terrance Grissom's request for leave to proceed *in forma pauperis* is DENIED because plaintiff is ineligible for *in forma pauperis* status under 28 U.S.C. § 1915(g).

2. Plaintiff may have until February 2, 2015, to submit a check or money order made payable to the clerk of court in the amount of \$400. If plaintiff fails to pay the fee by the deadline, the clerk of court is directed to close this file. In that event, the clerk of court is to ensure that plaintiff's obligation to pay the \$400 fee for filing this case is reflected in this court's financial records.
3. Plaintiff is sanctioned as stated in the opinion above.

Entered this 12th day of January, 2015.

BY THE COURT:

/s/

JAMES D. PETERSON
District Judge