

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

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LAPONZO M. DALLAS,

Petitioner,

v.

RYAN BARTOW, Warden,  
HSU STAFF, JOHN DOES,  
U.W. HOSPITAL JOHN DOES,

Respondents.  
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ORDER

04-C-374-C

Petitioner Laponzo Dallas, a prisoner at the Wisconsin Resource Center in Winnebago, Wisconsin, has filed a proposed complaint and a request for leave to proceed in forma pauperis. The request will be denied, because petitioner 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, petitioner has been denied leave to proceed in forma pauperis in the Eastern District of Wisconsin in lawsuits deemed to be legally frivolous. See Dallas v. Cole, 97-CV-243, decided May 27, 1997; Dallas v. Beecher, 97-CV-489, decided May 23, 1997; and Dallas v. Beecher, 98-CV-937, decided February 1, 1999.

Moreover, petitioner's complaint does not allege credible facts from which an inference may be drawn that he is under imminent danger of serious physical injury. Petitioner alleges that he has been experiencing stomach pain since November 1999. He believes there is something inside his stomach, colon and intestines that respondent health officials know about but will not reveal to him. He asks that this court compel the warden to investigate his "stomach, colon and intestine issues."

In February 2000, I dismissed a nearly identical complaint from petitioner, Dallas v. Gamble, 00-C-87-C. In that case, petitioner alleged that respondents were attempting to poison him, which was causing him to experience months of stomach pain. I concluded that petitioner's allegations were simply too incredible to permit him to proceed under the exception in § 1915(g). Apparently, petitioner's stomach pain has continued for four more years. Although I have no doubt that petitioner is experiencing pain that respondents cannot relieve, I do not believe that his pain is being caused by corrupt prison officials who are plotting his demise or that he is otherwise under "imminent danger of serious physical injury." Therefore, petitioner is disqualified from proceeding in forma pauperis under §

1915(g).

Under the 1996 Prison Litigation Reform Act, petitioner owes the \$150 filing fee, which must be paid immediately. Newlin v. Helman, 123 F.3d 429, 436-437 (7th Cir. 1997). From the trust fund account statement petitioner submitted with his complaint, I note that petitioner has a zero balance in his regular account and receives no income. Nevertheless, if petitioner were to find a way to pay the filing fee, this court then will 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, by July 9, 2004, petitioner does not pay the fee, then I will close this case and inform the warden of petitioner's institution that he is to begin collecting the fee pursuant to 28 U.S.C. § 1915(b)(2) at such time as petitioner receives income to his prison account.

#### ORDER

IT IS ORDERED that petitioner's request for leave to proceed in forma pauperis is DENIED because petitioner is barred from proceeding in forma pauperis under § 1915(g). Further, IT IS ORDERED that petitioner may have until July 9, 2004, in which to pay the \$150 fee for filing this action. If, by July 9, 2004, petitioner fails to pay the filing fee, the clerk of court is directed to close this file and notify the warden of the Wisconsin Resource

Center of petitioner's financial obligation to pay the fee so that he can begin collecting it in installments pursuant to 28 U.S.C § 1915(b)(2) when petitioner has the means to make such payments.

Entered this 18th day of June, 2004.

BY THE COURT:

BARBARA B. CRABB  
District Judge