

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

DWIGHT A. WILLIAMS,

Petitioner,

v.

ORDER

04-C-50-C

LT. CLYDE MAXWELL,
SECURITY DIRECTOR MARK SCHOMISCH,
MAIL ROOM EMPLOYEES, ET AL.,
JERRY MAROWITZ, ET AL.,

Respondents.

Petitioner Dwight Williams, who is presently confined at the Fox Lake Correctional Institution in Fox Lake, Wisconsin, asks for leave to proceed under the in forma pauperis statute, 28 U.S.C. § 1915. From the financial affidavit petitioner has given the court, I conclude that petitioner is unable to prepay the full fees and costs of starting this lawsuit. Petitioner has paid the initial partial payment required under § 1915(b)(1).

In addressing any pro se litigant's complaint, the court must read the allegations of the complaint generously. See Haines v. Kerner, 404 U.S. 519, 521 (1972). However, if the litigant is a prisoner, the 1996 Prison Litigation Reform Act requires the court to deny

leave to proceed if the prisoner has had three or more lawsuits or appeals dismissed for lack of legal merit (except under specific circumstances that do not exist here), or if the prisoner's complaint 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.

Petitioner's claim will be dismissed as legally frivolous. Petitioner seeks to initiate criminal proceedings against respondents for violating 18 U.S.C. §§ 241 and 242, which make it a crime to willfully deprive someone of his constitutional rights or to become involved in a conspiracy to do so, and 18 U.S.C. §§ 1701-1703, which prohibit interference with the mail. Unfortunately for petitioner, neither he nor this court has the authority to issue a criminal complaint; "the United States and its attorneys have the sole power to prosecute criminal cases in the federal courts." Maine v. Taylor, 477 U.S. 131, 136 (1986).

ORDER

IT IS ORDERED that

1. Petitioner Dwight Williams's request for leave to proceed in forma pauperis is DENIED and this case is DISMISSED as legally frivolous.
2. The unpaid balance of petitioner's filing fee is \$ 135.21; this amount is to be paid in monthly payments according to 28 U.S.C. § 1915(b)(2);

3. A strike will be recorded against petitioner pursuant to § 1915(g); and
4. The clerk of court is directed to close the file.

Entered this 27th day of February, 2004.

BY THE COURT:

BARBARA B. CRABB
District Judge