

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

BOBBY D. HARPER,

Plaintiff,

v.

ORDER

CATHY TESS,

06-C-265-S

Defendant.

Upon receipt of plaintiff's partial filing fee in the amount of \$3.66 the Court addresses the merits of his initial complaint. According to 28 U.S.C. § 1915(b)(2), the institution's financial officer is authorized to deduct monthly payments from plaintiff's account until the \$350.00 filing fee is paid in full.

Plaintiff alleges that he was denied due process protections in his disciplinary proceeding at the Wisconsin Secure Program Facility.

In Zinermon v. Burch, 439 U.S. 113 (1990), the United States Supreme Court held that a deprivation of an individual's liberty interest does not state a claim under the Fourteenth Amendment due process clause if adequate state post deprivation remedies exist. Petitioner has adequate state post deprivation remedies including administrative remedies, a state petition for a writ of habeas corpus and a state court action for damages. Accordingly, plaintiff's complaint must be dismissed for failure to state a claim for relief under federal law.

Plaintiff is advised that in any future proceedings in this matter he must offer argument not cumulative of that already provided to undermine this Court's conclusion that his claim must be dismissed. See Newlin v. Helman, 123 F.3d 429, 433 (7th Cir. 1997).

ORDER

IT IS ORDERED that plaintiff's complaint and all claims contained therein is DISMISSED without prejudice for failure to state a claim under federal law.

Entered this 31st of May, 2006.

BY THE COURT:

S/

JOHN C. SHABAZ
District Judge