

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

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DWAYNE ALMOND,

Petitioner,

v.

STATE OF WISCONSIN; GREGORY GRAMS;  
and MR. GREENBAY WARDEN,

Respondents.  
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ORDER

06-C-448-C

This is a proposed civil action for monetary relief under 42 U.S.C. § 1983. Petitioner Dwayne Almond, an inmate at the Wisconsin Resource Center in Winnebago, Wisconsin, contends that respondents violated his constitutional right of access to the courts when they denied him a legal loan.

In an order dated August 18, 2006, I concluded that petitioner does not have the means to make an initial partial payment of the filing fee and that his request for leave to proceed in forma pauperis in this case and in five other cases would be taken under advisement. In this order, I will consider whether petitioner's complaint in this case should be dismissed on the ground that the action is legally meritless, fails to state a claim on which relief may be granted or seeks monetary relief against a defendant who is immune from such

relief. 28 U.S.C. § 1915(e)(2).

In his complaint, petitioner alleges the following facts.

## ALLEGATIONS OF FACT

### A. Parties

Petitioner Dwayne Almond is a prisoner at the Wisconsin Resource Center in Winnebago, Wisconsin.

Respondent Gregory Grams is Warden of the Columbia Correctional Institution.

Respondent Mr. Green Bay Warden is Warden of the Green Bay Correctional Institution in Green Bay, Wisconsin.

### B. Legal Loan

In late March 2006, while incarcerated at the Columbia Correctional Institution, petitioner received a legal loan from the institution's business office to help him pursue several lawsuits against the Wisconsin Department of Corrections. The following week petitioner was transferred to another prison (which one, he does not say). On April 3, 2006, petitioner completed paperwork requesting a new loan. The request was denied.

## OPINION

Prisoners have a constitutional right of access to the courts to pursue postconviction remedies and to challenge the conditions of their confinement. Lehn v. Holmes, 364 F.3d 862, 865-66 (7th Cir. 2004). To state a denial of access claim, a prisoner is required to allege in his complaint not only that he has been denied access to the courts but also that he “has suffered an injury over and above” the denial of access to a court. Walters v. Edgar, 163 F.3d 430, 434 (7th Cir. 1998). The reason for this “heightened standard” is simple:

[T]he mere denial of access to . . . legal materials is not itself a violation of a prisoner’s rights; his right is to access the courts, and only if the defendants’ conduct prejudices a potentially meritorious challenge to the prisoner’s conviction, sentence, or conditions of confinement has this right been infringed.

Marshall v. Knight, 445 F.3d 965, 968 (7th Cir. 2006) (internal citations omitted). In this case, the facts alleged in petitioner’s complaint do not permit the inference that he was denied access to the court or that he was prevented from litigating a nonfrivolous lawsuit.

Petitioner alleges that (1) he sued the Wisconsin Department of Corrections in a number of unidentified lawsuits; (2) he received a legal loan from the Columbia Correctional Institution in late March 2006 to help him pursue those lawsuits; and (3) he was denied a second loan from a different prison in early April 2006. Because prisoners have “no constitutional entitlement to subsidy to prosecute a civil suit,” the denial of a legal loan cannot constitute a denial of access to the court. Lindell v. McCallum, 352 F.3d 1107, 1111

(7th Cir. 2003). Moreover, even if petitioner were entitled to the loan money (and he is not), he has not alleged any facts from which it might be inferred that his lawsuits against the Wisconsin Department of Corrections had any arguable merit. Walters, 163 F.3d at 434 (petitioner must allege facts showing prison's alleged "blockage prevented him from litigating a nonfrivolous case"). Because petitioner's allegations do not indicate that he was denied access to courts and that he was prevented from litigating a nonfrivolous case, he has failed to state a claim. Consequently, his request to proceed in forma pauperis will be denied.

#### ORDER

1. Petitioner Dwayne Almond's request for leave to proceed in forma pauperis is DENIED with respect to his claim that respondents State of Wisconsin, Gregory Grams, and Mr. Green Bay Warden violated his constitutional right to access the court by denying him a legal loan in April 2006.

2. The unpaid balance of petitioner's filing fee is \$350.00; 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 under 28 U.S.C. § 1915(g).

4. The clerk of court is directed to close the file.

Entered this 23d day of August, 2006.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge