

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

NATHAN J. GAUSTAD,

Plaintiff,

v.

ORDER

JODINE DEPPISCH and MEL PULVER,

06-C-501-S

Defendants.

Upon receipt of plaintiff's partial filing fee in the amount of \$15.43, the Court addresses the merits of plaintiff's 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 placed in segregation and punished without due process. He seeks declaratory and monetary relief.

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. Plaintiff 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, he will not be allowed to proceed on his due process claim.

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.

IT IS FURTHER ORDERED that plaintiff's motion for a temporary restraining order is DENIED as moot.

IT IS FURTHER ORDERED that judgment be entered DISMISSING plaintiff's complaint and all claims contained therein without prejudice.

Entered this 26th day of September, 2006.

BY THE COURT:

S/

JOHN C. SHABAZ
District Judge