

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

DWAYNE ALMOND,

Petitioner,

ORDER

v.

06-C-571-C

STATE OF WISCONSIN, MR. BURAN,
BARTOW, Warden, MR. MARK SCHMIDT,
Supervisor, MR. DR. AESSLER, Medical, MR.
D. KANANAUGH, Head of Supervisor,

Respondents.

Petitioner Dwayne Almond is an inmate at the Green Bay Correctional Institution in Green Bay, Wisconsin. In the past two months, he has filed thirteen lawsuits in this district. Because three of those lawsuits were dismissed as legally frivolous, petitioner is barred under 28 U.S.C. § 1915(g) from seeking pauper status in this or any future civil action or appeal “unless [he] is under imminent danger of serious physical injury.” Moreover, in an order dated October 5, 2006, I warned petitioner that if he persisted in filing lawsuits that do not qualify for the imminent danger exception to § 1915(g), I would impose an order of the kind specified in Support Systems International, Inc. v. Mack 45

F.3d 185 (7th Cir. 1995), under which the clerks of every court in the circuit would be required to return unfiled to petitioner any papers he sends to the court in any civil litigation other than a collateral attack on a criminal conviction until he pays the money he owes for the lawsuits he has filed already.

This lawsuit was submitted to the court on the same day I signed the October 5, 2006 order. Because petitioner had not received that order before he filed this lawsuit, I will not impose a Mack order on him in response to the filing of this lawsuit. However, petitioner must be aware that I will make no further exceptions. Should he file additional lawsuits that do not meet the requirements of § 1915(g) or are not accompanied by a filing fee, a Mack order will be entered against him.

With the respect to this case, my review of petitioner's complaint is limited to determining whether he has alleged that he is in imminent danger of such injury. Because he has not done so, petitioner's requests to proceed in forma pauperis will be denied.

In his complaint, petitioner alleges the following facts.

ALLEGATIONS OF FACT

Petitioner Dwayne Almond is a prisoner at the Green Bay Correctional Institution in Green Bay, Wisconsin. He suffers from paranoid schizophrenia.

On July 7, 2006, petitioner spit up blood. He caught the blood in some tissue, which

he showed to respondent Schmidt. Petitioner asked to see a doctor, but respondent Schmidt denied the request. At a later time, petitioner received medical care from nurse Ann Semrow, but was denied medical care by respondent Dr. Aessler.

OPINION

Petitioner alleges that on a single day in July 2006, he spit up blood and was not permitted to see a doctor immediately. Petitioner does not indicate that he continues to spit blood and admits that he has seen medical personnel at least periodically since that time. In his proposed lawsuit, petitioner seeks only money damages for the denial of medical treatment on July 6. Petitioner's allegations in this case does not suggest that he is in immediate danger of harm; consequently, his request for leave to proceed in forma pauperis will be denied.

Nevertheless, petitioner must pay the \$350 fee for filing each of these actions, whether or not he intends to pursue them. If petitioner does not pay the fees by October 27, 2006, the clerk of court is directed to close these cases and notify the warden of the Green Bay Correctional Institution of petitioner's obligation to pay the fees. It will be up to the warden to determine how amounts deposited to petitioner's account, if any, might be utilized to pay petitioner's debt to this court, even though the installment provision of 28 U.S.C. § 1915(b)(2) does not apply to petitioner. Dallas v. Gamble, slip op. WL 2371346

(W.D. Wis. Aug. 14, 2006).

ORDER

IT IS ORDERED that petitioner Dwayne Almond's request to proceed in forma pauperis is DENIED with respect to Case Nos. 06-C-571-C.

Further, IT IS ORDERED that petitioner may have until October 27, 2006, in which to pay the \$350 fee for filing this action. If, by October 27, 2006, petitioner fails to pay the required filing fee, the clerk of court is directed to close this case and notify the warden of the Green Bay Correctional Institution of petitioner's obligation to pay the filing fee.

Entered this 12th day of October, 2006.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge