

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

ORLANDO LEWAYNE PILCHER,

Plaintiff,

v.

U.S. FEDERAL COURT, GREENVILLE, MS,
ALLEN PEPPER JR. & ADMINISTRATION,
RICKY BANKS, Town Sheriff,
DEWAYNE SMITH, STEPHEN NICKS
and DAVID SANDERS,

Defendants.

ORDER

09-cv-336-bbc

Plaintiff Orlando Pilcher has filed a complaint under 42 U.S.C. § 1983 and has made an initial partial payment in accordance with 28 U.S.C. § 1915(b)(1). Because plaintiff is a prisoner, I am required under the 1996 Prison Litigation Reform Act to screen his complaint and dismiss any claims that are legally frivolous, malicious, fail to state a claim upon which relief may be granted or ask for money damages from a defendant who by law cannot be sued for money damages. 28 U.S.C. § 1915A.

Although plaintiff's complaint is somewhat difficult to understand, it seems to include two separate claims, neither of which plaintiff may pursue in this case. I understand

plaintiff's first claim to be that defendants conspired to wrongfully convict him of a drug-related crime. As a federal prisoner, plaintiff could have raised such a claim on direct appeal, in a motion under 28 U.S.C. § 2255 or in a petition for a writ of habeas corpus under 28 U.S.C. § 2241. This is not a claim that plaintiff may raise in a case under § 1983 before he has invalidated his conviction through other means. Preiser v. Rodriguez, 411 U.S. 475, (1973), and Heck v. Humphrey, 512 U.S. 477 (1994).

I understand plaintiff's second claim to be that some of the defendants are responsible for the "wrongful death" of Masheba Laurence and Allen Lacy. Plaintiff has not shown that he has standing to bring this claim. A plaintiff may bring a lawsuit only for violations of his own constitutional rights; he may not sue for the alleged violations of the rights of others unless he has a special legal relationship with the aggrieved party. Hinck v. United States, 550 U.S. 501, 510 (2007). Because plaintiff does not identify any relationship he had with Laurence or Lacy, this claim must be dismissed.

ORDER

IT IS ORDERED that

1. Plaintiff Orlando Pilcher's claim that defendants conspired to wrongfully convict is DISMISSED on the ground that the claim is barred by Preiser v. Rodriguez, 411 U.S. 475, (1973), and Heck v. Humphrey, 512 U.S. 477 (1994).

2. Plaintiff's claim that defendants are responsible for the wrongful death of Masheba Laurence and Allen Lacy is DISMISSED for lack of standing.

3. A strike will be recorded in accordance with 28 U.S.C. § 1915(g).

4. Plaintiff is obligated to pay the unpaid balance of his filing fees in monthly payments as described in 28 U.S.C. § 1915(b)(2). The clerk of court is directed to send a letter to the warden of plaintiff's institution informing the warden of the obligation under Lucien v. DeTella, 141 F.3d 773 (7th Cir. 1998), to deduct payments from plaintiff's trust fund account until the filing fees have been paid in full.

5. The clerk of court is directed to enter judgment in favor of defendants and close this case.

Entered this 17th day of August, 2009.

BY THE COURT:

/s/

BARBARA B. CRABB
District Judge