

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

LLOYD T. SCHUENKE,

Plaintiff,

v.

ORDER

12-cv-382-bbc

WISCONSIN DEPARTMENT OF CORRECTIONS,
GARY HAMBLIN, KATHRYN ANDERSON,
CATHY JESS, JUDY SMITH, COLLEEN JANIKOWSKI
and SANDY HENRICKSON,

Defendants.

Plaintiff Lloyd Schuenke, a prisoner at the Oshkosh Correctional Institution, has submitted a proposed complaint alleging that staff will not give him a new legal loan. Plaintiff seeks leave to proceed with his complaint in forma pauperis. However, because plaintiff has struck out under 28 U.S.C. § 1915(g), he cannot obtain indigent status under § 1915 unless he alleges facts in his complaint from which an inference may be drawn that he is in imminent danger of serious physical injury. In a July 31, 2012 order, I denied plaintiff's motion for leave to proceed because he failed to raise allegations that qualify under the imminent danger standard. I gave plaintiff an opportunity to either pay the full \$350 filing fee or amend his complaint to include allegations describing defendants' personal involvement in causing injury or failing to protect him from harm.

Now plaintiff has responded to the order, stating that defendants are part of a

conspiracy to hamper inmates' ability to file lawsuits by implementing an onerous legal loan policy, and that the longer plaintiff is incarcerated with dangerous prisoners, the more he is subjected to possible harm. These allegations come no closer to meeting the imminent danger standard. Plaintiff has not described any tangible danger he faces. Ciarpaglini v. Saini, 352 F.3d 328, 330 (7th Cir. 2003) (To meet imminent danger requirement of 28 U.S.C. § 1915(g), a prisoner must allege a physical injury that is imminent or occurring at the time complaint is filed and show that the threat or prison condition causing the physical injury is real and proximate.). In addition, defendants' role in plaintiff's perceived danger is quite attenuated; plaintiff is not suggesting that they are actually failing in their duty to protect him from harm at the hands of other inmates, only that the legal loan policy prevents him from litigating matters. Because plaintiff's supplemental allegations fail to meet the imminent danger standard and because he has not indicated any desire to prepay the \$350 filing fee, I will dismiss the case.

ORDER

IT IS ORDERED that

1. Plaintiff Lloyd Schuenke's motion for leave to proceed in forma pauperis on his supplemental allegations, dkt. #5, is DENIED because his allegations do not qualify under the imminent danger exception to 28 U.S.C. § 1915(g).

2. This case is DISMISSED without prejudice and the clerk of court is directed to close the case.

Entered this 5th day of November, 2012.

BY THE COURT:
/s/
BARBARA B. CRABB
District Judge