

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

MIKEAL GLENN STINE,

Plaintiff,

vs.

CIVIL ACTION
No. 10-3158-SAC

MICHAEL K. NALLEY,

Defendant.

ORDER

This matter is a civil rights action filed by a prisoner incarcerated in the United States Penitentiary, Florence, Colorado. By its order of September 22, 2010 (Doc. 12), the court determined this matter is subject to the provisions of 28 U.S.C. § 1915(g), the "three strikes" provision of the Prison Litigation Reform Act and denied leave to proceed in forma pauperis. Plaintiff was granted thirty days to submit the full filing fee, and he was notified that the failure to pay the fee within that time would result in the dismissal of this matter without prejudice.

In that order, the court took judicial notice that plaintiff had filed a substantially similar action¹ in the District

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Stine v. Lappin, 10-1652 (D. Colo.); a copy of the report prepared by petitioner's custodian was attached to this court's order denying leave to proceed in forma pauperis.

of Columbia, and that the matter had been transferred to the District of Colorado, where plaintiff is incarcerated. The transferee court ordered a response by the plaintiff's custodian and thereafter determined plaintiff's claim of imminent danger did not warrant the granting of in forma pauperis status. Plaintiff filed the present action while the case in the District of Colorado was pending.

Plaintiff has failed to submit the filing fee, but he has filed a number of other pleadings, including motions for preliminary injunctive relief and for a temporary restraining order and an amended complaint. The court has examined these pleadings and has considered plaintiff's allegations of fact but concludes plaintiff is not entitled to proceed in forma pauperis under 28 U.S.C. § 1915(g).

Plaintiff's claim against the sole defendant is that he is exposed to danger because the defendant, a Regional Director of the Bureau of Prisons, discontinued protective custody units. The defendant was named in the earlier action brought by plaintiff in the District of Colorado, and the allegations of imminent danger in this matter are substantially the same as those presented, and rejected, in the earlier action. The court finds this matter is a repetitive filing and concludes there is no basis to allow the plaintiff to proceed in forma pauperis.

IT IS, THEREFORE, BY THE COURT ORDERED this matter is dismissed without prejudice due to plaintiff's failure to submit the full filing fee as directed.

IT IS FURTHER ORDERED plaintiff's motion for deferment (Doc. 3), motion for temporary restraining order or for preliminary injunction (Doc. 4), motion for preliminary injunction, for oral arguments, and for expedited consideration (Doc. 5), motion to supplement (Doc. 11), motion to amend complaint and for ruling (Doc. 13), motion for court-ordered copies (Doc. 14), and motion for reconsideration (Doc. 15) are denied.

A copy of this order shall be transmitted to the plaintiff.

IT IS SO ORDERED.

DATED: This 28th day of October, 2010, at Topeka, Kansas.

S/ Sam A. Crow
SAM A. CROW
U.S. Senior District Judge