

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

JOSEPH ROBERTS

*

Plaintiff

*

v

*

Civil Action No. DKC-09-3048

WARDEN

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Defendant

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MEMORANDUM OPINION

The above-captioned civil rights complaint was filed on November 24, 2009. Plaintiff claims the grievance procedure in place at the Cecil County Correctional Facility is biased because it requires staff members to process complaints against fellow staff members. Paper No. 1. By way of example Plaintiff states that Deputy Fryer failed to inform the Circuit Court for Cecil County that he was being held in the court's bullpen causing him to miss a motions hearing on July 30, 2009. *Id.* Plaintiff states his charges could have been dismissed if he had not missed the hearing. *Id.* Plaintiff alleges he filed a grievance about the incident and rather than Deputy Fryer being found at fault, Plaintiff was found to be at fault for the missed hearing. *Id.*

Under the provisions of 28 U.S.C. § 1915(e)(2) a case "shall be dismissed at any time if the court determines that- (A) the allegation of poverty is untrue; or (B) the action or appeal- (i) is frivolous or malicious; (ii) fails to state a claim on which relief may be granted; or (iii) seeks monetary relief against a defendant who is immune from such relief." The instant complaint fails to state a claim upon which relief may be granted. Plaintiff has not alleged any cognizable injury flowing from the alleged deficiencies of the grievance procedure. Although his grievance was not resolved in his favor, Plaintiff does not allege his constitutional rights were infringed as a

result nor does he include facts from which a constitutional issue might be gleaned. Accordingly, the complaint must be dismissed.

Plaintiff is reminded that under 28 U.S.C. §1915(g) he will not be granted *in forma pauperis* status if he has “on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury”. The instant case will be the first filed by Plaintiff that has been dismissed as frivolous. For the reasons stated, this case will be dismissed by separate order.

Date: December 7, 2009

_____/s/_____
DEBORAH K. CHASANOW
United States District Judge