

Santiago v. Delaware Correctional Center
03C-07-047 HDR
December 23, 2003

ORDER

On this 23rd day of December, 2003, upon consideration of Michael Santiago's Application to Proceed *In Forma Pauperis*, it appears that:

(1) Plaintiff Michael Santiago filed a civil rights action¹ against Defendants Delaware Correctional Center ("DCC"); the DCC's Business Office Accounting Department ("Office"); Joe Hudson, a Support Manager at the Office; and ten unidentified Office employees. Before the Court is Santiago's request to waive court costs and proceed *in forma pauperis*.

(2) The DCC maintains a prison bank account system, whereby prisoner purchases and expenses are deducted from inmates' individual accounts. Santiago has incurred a negative account balance, and claims the DCC's decision to prohibit future purchases violates his civil rights. Under the Fourteenth Amendment, prisoners have a right to be free from interference in accessing courts and the legal process. I conclude that Santiago's allegations fail to state a cause of action upon which relief may be granted and that his application to proceed *in forma pauperis* lacks merit.

(3) Santiago has filed a complaint under 42 U.S.C. §1983,² alleging that

¹ Although only the application to waive costs is before the Court, Santiago has also submitted the underlying civil complaint.

² Under the Civil Rights Act of 1871, "Every person who, under color of any statute, . . . subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law . . ." 42 U.S.C. § 1983.

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officials from the Office had repeatedly and unlawfully withdrawn funds from his prison bank account. In the complaint, Santiago relates a chronology of credits and debits, spanning from mid-2002 to the present. For example, he has earned money through prison employment, and has received several money orders.³ Santiago also has incurred debts related to copying fees⁴ and living expenses. After the DCC subtracted his purchase amounts, Santiago incurred a negative balance. Unable to make further purchases, Santiago then filed a series of unsuccessful grievances against Defendants over the course of 2002-2003. This action followed.

(4) Pursuant to 10 *Del. C.* §§ 8802-8803,⁵ the Court must make a finding of indigence before considering the merits of the case. Here, however, the complaint is already before the Court. Because the Court finds no merit in the complaint, and concludes, as discussed below, that Santiago's action is legally

³ Plaintiff's Complaint, ¶ 20, at 6.

⁴ The copying fees stem from "two lawsuits [filed] under indigent status," and are apparently unrelated to Plaintiff's present action. *Id.*, n.1, at 4.

⁵ Before an application to proceed *in forma pauperis* may be granted, the applicant must "submit a sworn affidavit sufficient to allow the court to determine the ability of the affiant to pay all or any portion of the court costs and fees" associated with filing the action. 10 *Del. C.* § 8802(b). Specifically, the affidavit must contain a "statement that the affiant is unable to pay the costs and fees," and, among others, provide "complete information" regarding identity, sources of income, debts, and property owned. *Id.* If granted, the presiding court will issue an order "authorizing the filing of the complaint and establishing the amount of court costs and filing fees to be paid." *Id.* at § 8803(a). After "establishing the amount of fees . . . , the court shall review the complaint," and dismiss the action if it finds it to be "factually frivolous, malicious, or . . . legally frivolous [such] that even a pro se litigant, acting with due diligence, should have found well-settled law disposing of the issues raised." *Id.* at § 8803(b) (punctuation altered).

frivolous, there is no basis to grant the *in forma pauperis* application.

(5) By deducting funds for prior purchases, Santiago accuses Defendants of depriving him and other inmates of their “basic needs and essentials.”⁶

Specifically, Santiago alleges that withdrawing more than twenty percent of an inmate’s funds is a “punitive” and “cruel” practice which violates both Delaware law and the United States Constitution.⁷ In support of this allegation, Santiago directs the Court to 11 *Del. C.* § 6534(b).⁸ This section, while restricting the amount that may be withdrawn from an inmate’s account, is inapposite.⁹ Santiago does not cite any Delaware authority prohibiting the DCC from withdrawing funds or denying a line-of-credit request. I find Santiago’s allegations under state law are without merit.

(6) Turning to his civil rights claim, inmate access to the courts is guaranteed by the due process and equal protection clauses of the Fourteenth

⁶ Pl. Compl., ¶ 2, at 2.

⁷ *Id.*; see also *id.* at n.2, at 5.

⁸ Santiago actually cites “11 [*Del. C.*] § 6534A(b),” a nonexistent statutory provision. Nevertheless, in taking his argument as a whole, the Court will presume that Santiago meant to specify section 6534(b).

⁹ Section 6534(b) provides that the Department of Correction may “deduct from any inmate’s wages . . . a portion thereof to be applied to the Victim Compensation Fund.” All deductions under this subsection “shall be limited to no more than [twenty] percent” of earned wages. *Id.*

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Amendment.¹⁰ However, Santiago has not alleged any interference with his access to the courts and this action itself demonstrates he has access. His complaint fails to state a cause of action for any violation of his civil rights.¹¹ As a result, Santiago's Application to Proceed *In Forma Pauperis* is denied.

NOW, THEREFORE, IT IS ORDERED that:

- (A) The Application to Proceed *In Forma Pauperis* is **DENIED**; and
- (B) Plaintiff's Complaint is **DISMISSED**.

IT IS SO ORDERED.

/s/ Henry duPont Ridgely
President Judge

ds
oc: Prothonotary
xc: Order Distribution

¹⁰ *Younger v. Gilmore*, 404 U.S. 15 (1971), *aff'g Gilmore v. Lynch*, 319 F. Supp. 105 (N.D. Cal. 1970); *Gittlemacker v. Prasse*, 428 F.2d 1 (3d Cir. 1970); *Johnson v. Anderson*, 370 F. Supp. 1373, 1384 (D. Del. 1974); *see also* Jerald J. Director, Annotation, *Relief Under Federal Civil Rights Acts to State Prisoners Complaining of Interference With Access to Courts*, 23 A.L.R. FED. 6, § 2b (2003).

¹¹ *See Riley v. Carroll*, Del. Supr., No. 326, 2003, Holland, J. (December 17, 2003) (*citing Reynolds v. Wagner*, 128 F.3d 166, 183 (3d Cir. 1997)).