

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

COLT ESMOND COLLIS,

Plaintiff,

v.

JUDGE DAVID EPIS, et. al.

Defendants.

Case No. 4:16-CV-483-BLW

**MEMORANDUM DECISION
AND ORDER**

INTRODUCTION

The Court has before it plaintiff's application to proceed without payment of fees. For the reasons explained below, the Court will deny the application and dismiss this case.

ANALYSIS

The Court is required to screen complaints brought by litigants who seek in forma pauperis status. *See* 28 U.S.C. § 1915(e)(2). Plaintiff's Complaint, or a portion thereof, will be dismissed if it: (1) is frivolous or malicious; (2) fails to state a claim upon which relief can be granted; or (3) seeks monetary relief from a defendant who is immune from such relief. *See* 28 U.S.C. § 1915(e)(2)(B)(i-iii). To state a claim upon which relief can be granted, plaintiff's Complaint must include facts sufficient to show a plausible claim for relief. *See Ashcroft v. Iqbal*, 556 U.S. 662, 677-78 (2009). During this initial

review, courts generally construe pro se pleadings liberally, giving pro se plaintiffs the benefit of any doubt. *See Resnick v. Hayes*, 213 F.3d 443, 447 (9th Cir. 2000).

Additionally, if amending the complaint would remedy the deficiencies, plaintiffs should be notified and provided an opportunity to amend. *See Jackson v. Carey*, 353 F.3d 750, 758 (9th Cir. 2003).

In this case, plaintiff complains about his conviction for riding his bicycle four feet away from the curb. Plaintiff filed an identical case in 2016, and that case was dismissed as frivolous and for failing to state a claim. *See Collis v. State of Idaho*, Case No. 1:16-cv-00121-CWD (D. Idaho 2016). On appeal, the Ninth Circuit also found the action frivolous and ordered it dismissed. *See Collis v. State of Idaho*, Case No. 16-35389 (9th Cir. July 19, 2016).

This lawsuit is equally frivolous. Magistrate Judge Bush conducted a thorough review, and in a well-written decision recommended that the action be dismissed. *See Initial Review Order (Dkt. No. 27)*. The Court adopts that decision as its own.

Plaintiff's attempts to amend the complaint do not change the frivolous nature of this lawsuit. Indeed, no conceivable amendment could save this action from being frivolous, and the Court will therefore order that it be dismissed. The Court will however, order sealed material filed by the plaintiff in his Motion (docket no. 4) because those materials contain medical records of the plaintiff.

ORDER

In accordance with the Memorandum Decision set forth above,

NOW THEREFORE IT IS HEREBY ORDERED, that the Initial Review Order (docket no. 27) is hereby ADOPTED as the decision of this Court.

IT IS FURTHER ORDERED, that the following motions are DENIED: docket numbers 8, 10, 11, 16, 18, 19, 21, 25, 26, 28 & 29.

IT IS FURTHER ORDERED, that the motion to seal medical records (docket no. 4) is GRANTED, and the Clerk is directed to seal the motion (docket no. 4) and all supporting material filed with that motion at docket no. 4.

IT IS FURTHER ORDERED, that this action be dismissed pursuant to 28 U.S.C. § 1915(e)(2)(B)(i-iii).

IT IS FURTHER ORDERED, that the Clerk close this case.



DATED: September 28, 2017

A handwritten signature in black ink that reads "B. Lynn Winmill". The signature is written in a cursive style and is positioned above a horizontal line.

B. Lynn Winmill
Chief Judge
United States District Court