

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF ILLINOIS

JASON LEE MONTAGUE,)	
)	
Plaintiff,)	
)	
v.)	17-CV-1560
)	
DON L. WILLIAMSON, <i>et al.</i> ,)	
)	
Defendants.)	

MERIT REVIEW AND CASE MANAGEMENT ORDER

The plaintiff, proceeding *pro se*, and currently incarcerated at Pontiac Correctional Center, was granted leave to proceed *in forma pauperis*. The case is now before the court for a merit review of plaintiff’s claims. The court is required by 28 U.S.C. § 1915A to “screen” the plaintiff’s complaint, and through such process to identify and dismiss any legally insufficient claim, or the entire action if warranted. A claim is legally insufficient if it “(1) is frivolous, malicious, or fails to state a claim upon which relief may be granted; or (2) seeks monetary relief from a defendant who is immune from such relief.” 28 U.S.C. § 1915A.

In reviewing the complaint, the court accepts the factual allegations as true, liberally construing them in the plaintiff’s favor. *Turley v. Rednour*, 729 F.3d 645, 649 (7th Cir. 2013). However, conclusory statements and labels are insufficient. Enough facts must be provided to “state a claim for relief that is plausible on its face.” *Alexander v. U.S.*, 721 F.3d 418, 422 (7th Cir. 2013)(citation omitted). The court has reviewed the complaint and has also held a merit review hearing in order to give the plaintiff a chance to personally explain his claims to the court.

Plaintiff filed this lawsuit pursuant to 42 U.S.C. § 1983 alleging that he told the prison dentist that he wanted all his teeth pulled because they hurt “very bad.” Plaintiff alleges he is on blood thinner medication, and the dentist stated he would call plaintiff back to his office “because of the blood [thinner] issue.” A grievance

plaintiff attached to his complaint indicates that plaintiff's teeth were not pulled because the medical director would not medically clear plaintiff due to abnormal lab values and his blood thinner medication.

Plaintiff has no constitutional right to choose his own treatment. *Holloway v. Delaware Cnty. Sheriff*, 700 F.3d 1063, 1073 (7th Cir. 2012). Plaintiff stated the dentist did not pull all of plaintiff's teeth because the medical director would not clear plaintiff for the procedure; therefore, no inference of deliberate indifference exists. *Sain v. Wood*, 512 F.3d 886, 894-95 (7th Cir. 2008) (a medical professional is deliberately indifferent only if "the decision by the professional is such a substantial departure from accepted professional judgment, practice, or standards, as to demonstrate that the person responsible actually did not base the decision on such a judgment.").

Plaintiff's complaint fails to state a claim for federal relief.

IT IS THEREFORE ORDERED:

1. The plaintiff's complaint is dismissed for failure to state a claim pursuant to Fed. R. Civ. Proc. 12(b)(6) and 28 U.S.C. Section 1915A. This case is closed.
2. This dismissal shall count as one of the plaintiff's three allotted strikes pursuant to 28 U.S.C. Section 1915(g). The clerk of the court is directed to record the plaintiff's strike in the three-strike log.
3. The plaintiff must still pay the full docketing fee of \$350 even though his case has been dismissed. The agency having custody of the plaintiff shall continue to make monthly payments to the Clerk of Court, as directed in the Court's prior order.
4. If the plaintiff wishes to appeal this dismissal, he may file a notice of appeal with this court within 30 days of the entry of judgment. Fed. R. App. P. 4(a). A motion for leave to appeal *in forma pauperis* MUST set forth the issues the plaintiff plans to present on appeal. See Fed. R. App. P. 24(a)(1)(C). If the

plaintiff does choose to appeal, he will be liable for the \$505 appellate filing fee irrespective of the outcome of the appeal.

Entered this 28th day of February, 2018

/s/Harold A. Baker

HAROLD A. BAKER
UNITED STATES DISTRICT JUDGE