

United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	William T. Hart	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	10 C 4686	DATE	9/21/2010
CASE TITLE	Cordell Sanders (#R-41346) v. Medical Technician Barnes, et al.		

DOCKET ENTRY TEXT:

The plaintiff's motion to proceed *in forma pauperis* [#4] is granted. The trust fund officer at the plaintiff's place of confinement is authorized and ordered to make deductions from the plaintiff's account and payments to the Clerk of Court in accordance with this order. The Clerk is directed to mail a copy of this order to the trust fund officer at the Pontiac Correctional Center. However, on initial review pursuant to 28 U.S.C. § 1915A, the Court dismisses the plaintiff's complaint without prejudice to him pursuing his claims in *Sanders v. Barnes, et al.*, (Case No. 10 C 1378) (N.D.Ill.) (Hart, J.).

■ [For further details see text below.]

Docketing to mail notices.

STATEMENT

The plaintiff, a state prisoner, has brought this *pro se* civil rights action pursuant to 42 U.S.C. § 1983. The plaintiff claims that the defendant, a correctional officer at Stateville Correctional Center, violated his constitutional rights by denying him care for a serious medical condition. More specifically, he alleges that the defendant told him to leave his asthma inhaler in his old cell when he was being transferred into a new cell. Because he was forced to leave the inhaler behind, plaintiff was without his asthma inhaler from December 18, 2008 to January 3, 2009. He suffered an asthma attack on December 29, 2010.

The plaintiff's motion for leave to proceed *in forma pauperis* is granted. Pursuant to 28 U.S.C. § 1915(b)(1), the plaintiff is assessed an initial partial filing fee of \$5.82. The trust fund officer at the plaintiff's place of incarceration is authorized and ordered to collect the partial filing fee from the plaintiff's trust fund account and pay it directly to the Clerk of Court. After payment of the initial partial filing fee, the plaintiff's trust fund officer is directed to collect monthly payments from the plaintiff's trust fund account in an amount equal to 20% of the preceding month's income credited to the account. Monthly payments shall be forwarded to the Clerk of Court each time the amount in the account exceeds \$10 until the full \$350 filing fee is paid. All payments shall be sent to the Clerk, United States District Court, 219 S. Dearborn St., Chicago, Illinois 60604, attn: Cashier's Desk, 20th Floor, and shall clearly identify the plaintiff's name and this case number. This payment obligation will follow the plaintiff wherever he may be transferred. The Pontiac Correctional Center inmate trust account office shall notify transferee authorities of any outstanding balance in the event the plaintiff is transferred from the jail to another correctional facility.

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STATEMENT (continued)

However, on initial review, the Court dismisses the plaintiff's complaint. The plaintiff already has on file a complaint in the District Court for the Northern District of Illinois, involving the same allegations regarding his asthma inhaler, during the same time period, while incarcerated at Stateville. In the other suit, *Sanders v. Barnes, et al.*, (Case No. 10 C 1378) (N.D.Ill.) (Hart, J.), the plaintiff has named medical personnel (a physician and a correctional medical technician) as defendants. The Federal Rules of Civil Procedure provide that a defendant may be joined in one action if "any question of law or fact common to all defendants will arise in the action." Fed R. Civ. P. 20(a)(2)(B). The Court finds that, as the questions of law and fact as to the defendant in this case will be the same as those raised in *Sanders v. Barnes, et al.*, (Case No. 10 C 1378) (N.D.Ill.) (Hart, J.). Consequently, this action is dismissed with leave to amend the plaintiff's complaint in *Sanders v. Barnes, et al.*, (Case No. 10 C 1378) (N.D.Ill.) (Hart, J.). Although the dismissal of this suit is without prejudice to the plaintiff amending his complaint in his previously filed suit, having brought this suit, and having sought *in forma pauperis* status, the plaintiff shall be required to pay the filing fee pursuant to 28 U.S.C. § 1915(b)(1)