

United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Harry D. Leinenweber	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	11 C 3488	DATE	7/5/2011
CASE TITLE	Shaheed Muhammad (#B-67134) v. Marcus Hardy, et al.		

DOCKET ENTRY TEXT:

The plaintiff's complaint is summarily dismissed with prejudice for failure of the plaintiff to advise the court that he had "struck out." Further, although warned by this Court in the past, Plaintiff failed to notify the Court of all prior litigation, an additional fraud on the Court. *See Muhammad v. IDOC Director Roger Walker*, Case No. 05 C 1580 (N.D.Ill) (Leinenweber, J.) (March 29, 2005); *see also Hoskins v. Dart*, 633 F.3d 541, (7th Cir. 2010). The case is terminated. Having brought this action, the plaintiff nevertheless remains obligated to pay the full filing fee. Before pursuing any future litigation, the plaintiff must pay any outstanding fees. All pending motions are denied as moot.

■ [For further details see text below.]

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STATEMENT

The plaintiff, a state prisoner, has brought this *pro se* civil rights action pursuant to 42 U.S.C. § 1983 but has not paid nor seeks leave to proceed *in forma pauperis*. The plaintiff has accumulated at least three "strikes."

The Prison Litigation Reform Act of 1995 (PLRA), enacted on April 26, 1996, provides that a prisoner may not bring a civil action or appeal a civil judgment under 28 U.S.C. § 1915 "if the prisoner 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." 28 U.S.C. § 1915(g).

At least three of the plaintiff's previous actions have been dismissed in this district on the grounds that they were frivolous, malicious, or failed to state a claim upon which relief may be granted. *See, e.g., Muhammad v. Briley, et al.* Case No. 02 C 5018, (N.D. Ill.) (Alesia, J.) (August 15, 2002); *Muhammad v. County of Cook, et al.* Case No. 02 C 865, (N.D. Ill.) (Alesia, J.) (August 29, 2002); *Muhammad v. Walker, et al.* Case No. 05 C 1580, (N.D. Ill.) (Leinenweber, J.) (March 29, 2005). In fact, the Court previously advised the plaintiff that he had "struck out." *See* Order of March 10, 2011 in *Muhammad v. Ryker, et al.*, Case No. 10 C 991 (S.D. Ill.) (Gilbert, J.). Notwithstanding his knowledge that he is barred from doing so, the plaintiff has nevertheless sought leave to proceed *in forma pauperis*, and without disclosing his 1915(g) status to the court. Consequently, the plaintiff's effective "fraud" on the court must "lead to immediate termination of the suit." *Sloan v. Lesza*, 181 F.3d 857, 859 (7th Cir. 1999). The complaint is accordingly dismissed with prejudice.

(CONTINUED)

STATEMENT (continued)

Additionally, the Court notes that this Court warned the plaintiff in it's order of March 29, 2005, in that he had failed to notify the Court of all prior litigation he filed, where required in the complaint. *Muhammad v. Walker, et al.* Case No. 05 C 1580, (N.D. Ill.) (Leinenweber, J.) The Court further admonished the plaintiff that in failing to do so, there was a suggestion of fraud on the Court. *Id.* at p. 5. The plaintiff has again failed to disclose all prior litigation he has filed in the present complaint. The Court finds that this failure to disclose, in particular when the plaintiff has previously been admonished is a fraud on the Court, sufficient to merit dismissal of this case with prejudice. *See Hoskins v. Dart*, 633 F.3d 541, (7th Cir. 2010).

However, having brought this action, the plaintiff remains obligated to pay the full filing fee. *See* 28 U.S.C. §1915(b)(1); *Sloan*, 181 F.3d at 859. Before pursuing any future litigation, the plaintiff must pay any outstanding fees. *Id.*