

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

KENNETH SMITH, #B-32032,)	
)	
Plaintiff,)	
)	
vs.)	CIVIL NO. 09-cv-733-MJR
)	
DONALD GEATZ, et al.,)	
)	
Defendants.)	

MEMORANDUM AND ORDER

REAGAN, District Judge:

The Court denied Plaintiff Kenneth Smith’s motion to proceed *in forma pauperis* and dismissed this action without prejudice, finding that Smith had accumulated at least three strikes and is not in imminent danger of serious physical injury. Now before the Court are two new motions for reconsideration of that ruling (Docs. 10, 11).

In a prior motion for reconsideration (Doc. 8), Smith admitted that he filed two prior cases that may count as strikes. *See Smith v. Lee*, Case No. 02-cv-3944 (N.D. Ill., filed June 21, 2002); *Smith v. Aramark Food Mgmt.*, Case No. 04-cv-515 (N.D. Ill., filed Feb. 5, 2004). However, he maintains that the third case cited by the Court, *Smith v. Cole Taylor Bank*, Case No. 99-cv-7456 (N.D. Ill., filed Nov. 19, 1999), was wrongly counted against him. Specifically, he states that he “never filed a case against Cole Taylor Bank in past.” In addressing that prior motion (*see* Doc. 9), the Court explained to Smith that the docket of that action in the Northern District of Illinois clearly reflects that the action was filed by Kenneth Smith, I.D.O.C. register number B-32032, with a last-reported address at Menard Correctional Center. That is the same register number and address provided by Smith in this action, establishing that he is the same individual.

In his two instant motions, Smith adamantly argues that he is not the same Kenneth Smith who filed the case against Cole Taylor Bank, offering documentation suggesting that he was not incarcerated at the time that action was filed. The Clerk contacted the federal archives for the Northern District of Illinois and obtained copies of pleadings from that case, hoping that information or handwriting in those pleadings would definitively resolve this question. Unfortunately, it is not that simple.

The handwriting of the complaint in the Northern District¹ is not consistent with the handwriting of the pleadings filed in this District. In fact, even within the pleadings in each case, the handwriting is not consistent.² However, Smith's signature in pleadings in both cases is similar, although not identical. The Court could go to the expense of retaining a handwriting expert and conducting further hearings on the matter, but that seems a bit excessive for this particular issue. Thus, the Court will give Smith the benefit of the doubt; his motions for reconsideration are **GRANTED**.

IT IS HEREBY ORDERED that the order denying the *in forma pauperis* motion and closing this case (Doc. 7) is **VACATED** and held for naught.

The Clerk is **DIRECTED to REOPEN THIS CASE** and **REINSTATE** Smith's motion for leave to proceed *in forma pauperis* (Doc. 2).

IT IS SO ORDERED.

DATED this 11th day of August, 2010.

s/ Michael J. Reagan
MICHAEL J. REAGAN
United States District Judge

¹ A copy of the Northern District complaint is attached to this order as Exhibit 1.

² This inconsistent handwriting suggests to the Court that some pleadings may have been drafted by another inmate on Smith's behalf.