

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

CHARLES PHIFER,)	
)	
Plaintiff,)	
)	
vs.)	CAUSE NO. 3:16-CV-106-PPS-MGG
)	
CORIZON COMPANY,)	
)	
Defendant.)	

OPINION AND ORDER

Charles Phifer, a pro se prisoner, is barred from proceeding in forma pauperis unless he is in imminent danger of serious physical injury because he has incurred eight strikes. *See* 28 U.S.C. § 1915(g); *Phifer v. Wabash Valley*, 04-2089 (7th Cir. July 8, 2004). Based on his initial filings [DE 1, 2, 3, 4, 5, 6, 7, and 8], I did not conclude that he met that standard. In response to my deficiency orders, Phifer filed four amended complaints. [DE 14, 18, 21, and 24.] Based on the last one, I found that he had plausibly alleged that he was in imminent danger of serious physical injury because he had an untreated, unspecified, Sexually Transmitted Disease that caused him severe pain, damage to his liver, stomach cancer, other cancers, heart attack, and blindness. I granted him leave to proceed against Corizon Company for injunctive relief to obtain medical treatment and ordered Corizon to file a report explaining Charles Phifer’s Sexually Transmitted Disease and what treatment he has received, along with copies of any pertinent medical records. [DE 30.]

In Corizon's response, Dr. Noe Marandet declared that Phifer does not have a Sexually Transmitted Disease. [DE 46-1 at 3.] He declared that when Phifer was tested in July 2015, the lab results show that he did not have gonorrhea, chlamydia, syphilis, HIV, hepatitis A, B, or C. [*Id.*] He declared that when Phifer was seen by medical staff on March 13, 2016 and June 24, 2016, he did not seek treatment for – nor present symptoms of – a Sexually Transmitted Disease. [DE 46-1 at 3-4.] Phifer's medical records, attached to Corizon's filing, supported those statements. [DE 46-2.]

Based on that response, it did not appear that Phifer had a Sexually Transmitted Disease, it did not appear that he was in need of medical treatment for a Sexually Transmitted Disease, and it did not appear that he was in imminent danger. As a result, I ordered Phifer to tell me what Sexually Transmitted Disease he thinks he has. I ordered him to explain why he believes that he has a Sexually Transmitted Disease and to name the medical staff that he has told about it this year. [DE 47.] I ordered him to provide whatever documentation that he has. [*Id.*]

In his response, Phifer says that he has chlamydia. [DE 50 at 1.] He explains "[t]he brush stick when place in the vile has a reaction if positive, plaintiff was shown test was positive by Corizon nurse." [*Id.*] He appears to be saying that, on an unspecified date, an unnamed nurse showed him the positive test result during the same appointment when he was tested. According to the National Institutes of Health, however, test results for chlamydia "take 1 to 2 days to come back." <https://medlineplus.gov/ency/article/001345.htm>. Phifer says that his arms and chest

are covered with scars that were noted by L.P.N. Myers. [DE 50 at 2.] He says that he has headaches and dizziness. [*Id.*] However, the symptoms of chlamydia in men do not include scaring, headaches, or dizziness. Rather, the symptoms are a burning feeling during urination, discharge from the penis or rectum, tenderness or pain in the testicles, and/or rectal discharge or pain.

<https://medlineplus.gov/ency/article/001345.htm>.

Phifer attached to his response a 2014 liver sonogram test result indicating “hepatic steatosis” and “hepatomegaly.” [DE 50-1 at 1.] First, this 2014 test result says nothing about chlamydia and tells me nothing about whether Phifer has it now. Second, hepatic steatosis is a fatty liver commonly caused by obesity, diabetes, high cholesterol, high triglycerides, or high blood pressure.

<https://medlineplus.gov/ency/article/007657.htm>. There is no reference to it being caused by chlamydia or any other sexually transmitted disease. [*Id.*] Third, hepatomegaly is an enlarged liver. <https://medlineplus.gov/ency/article/003275.htm>. There are many causes for an enlarged liver, including hepatic steatosis. [*Id.*] The only sexually transmitted diseases that are listed as possible causes for hepatomegaly are hepatitis A, B, and C. [*Id.*] However, neither Phifer nor his test results indicate that he has any form of hepatitis. [DE 46-1 at 3, DE 46-2 at 14.]

Phifer attached to his response a 2016 test result indicating that he has “fatty infiltration of liver.” [DE 50-1 at 3-4.] Again, there is no medical basis for believing that a fatty liver is caused by chlamydia or any other Sexually Transmitted Disease.

<https://medlineplus.gov/ency/article/007657.htm>. Phifer attached a 2009 blood test result showing that his HDL/Total Cholesterol ratio places him at below average risk. [DE 50-1 at 5.] Though the results do not explain what risk this might be, it is clear that a seven year old test indicating that he has a lower than average risk of something is not evidence that he has chlamydia today. Phifer attached results of five different blood test taken from 2009 to 2014 showing that 6 of his 110 test results were abnormal. [DE 50-1 at 6-10.] All of these tests are old and none of them were for chlamydia.

Phifer argues that he has chronic kidney disease, diabetes, and a heart condition. However he has not provided any evidence that he has chlamydia, that he needs treatment for chlamydia, or that any of his chronic conditions could be either caused or aggravated by chlamydia. His most recent test for chlamydia on April 14, 2015, indicates that he did not have it. [DE 46-2 at 16.] According to the Centers for Disease Control, there is no medical basis for believing that chlamydia causes severe pain, liver damage, cancer, heart attack, or blindness.

<http://www.cdc.gov/std/chlamydia/stdfact-chlamydia-detailed.htm>.

Based on the allegations and record now before me, Phifer is not in imminent danger and that means that this case is over. Phifer has not paid the filing fee and he is barred from proceeding in forma pauperis unless he is in imminent danger of serious physical injury. Because he is not, this case cannot proceed.

For these reasons, this case is **DISMISSED WITHOUT PREJUDICE** for nonpayment of the filing fee and **CLOSED**. All pending motions are **DENIED** as moot.

SO ORDERED.

ENTERED: September 22, 2016

s/ Philip P. Simon
PHILIP P. SIMON, CHIEF JUDGE
UNITED STATES DISTRICT COURT