

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF INDIANA  
SOUTH BEND DIVISION

JUSTIN BRENT HOWARD,

Plaintiff,

v.

INDIANA DEPT OF CORRECTIONS,

Defendant.

CAUSE NO. 3:22-CV-357-JD-MGG

OPINION AND ORDER

Justin Brent Howard, a prisoner without a lawyer, filed a complaint. ECF 2. “A document filed *pro se* is to be liberally construed, and a *pro se* complaint, however inartfully pleaded, must be held to less stringent standards than formal pleadings drafted by lawyers.” *Erickson v. Pardus*, 551 U.S. 89, 94 (2007) (quotation marks and citations omitted). Nevertheless, under 28 U.S.C. § 1915A, the court must review the merits of a prisoner complaint and dismiss it if the action is frivolous or malicious, fails to state a claim upon which relief may be granted, or seeks monetary relief against a defendant who is immune from such relief.

Howard’s complaint, brought pursuant to 42 U.S.C. § 1983, alleges that he was not provided with a mattress, blanket, sheets, winter coat, or hat from November 24, 2021, until December 2, 2021, when temperatures were very cold. He has sued only one defendant: the Indiana Department of Correction. The Indiana Department of Correction is an arm of the state and therefore not a person who can be sued under 42 U.S.C. § 1983. *See Will v. Michigan Dep’t of State Police*, 491 U.S. 58, 71 (1989) (“We hold

that neither a State nor its officials acting in their official capacities are ‘persons’ under § 1983.”).

This complaint does not state a claim for which relief can be granted. If Howard believes he can state a claim based on (and consistent with) the events described in this complaint, Howard may file an amended complaint because “[t]he usual standard in civil cases is to allow defective pleadings to be corrected, especially in early stages, at least where amendment would not be futile.” *Abu-Shawish v. United States*, 898 F.3d 726, 738 (7th Cir. 2018). To file an amended complaint, he needs to write this cause number on a **Pro Se 14 (INND Rev. 2/20) Prisoner Complaint** form which is available from his law library. After he properly completes that form addressing the issues raised in this order, he needs to send it to the court.

For these reasons, the court:

(1) GRANTS Justin Brent Howard until **November 10, 2022**, to file an amended complaint; and

(2) CAUTIONS Justin Brent Howard if he does not respond by the deadline, this case will be dismissed under 28 U.S.C. § 1915A without further notice because the current complaint does not state a claim for which relief can be granted.

SO ORDERED on October 7, 2022

/s/JON E. DEGUILIO  
CHIEF JUDGE  
UNITED STATES DISTRICT COURT