

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

MICHAEL DEWAYNE HICKINGBOTTOM,)

Plaintiff,)

v.)

No. 1:16-cv-03423-TWP-DML

M. JOHNSON, Nurse for Corizon Health,)

HIPPEL Doctor for Corizon Health,)

T. WOMACK, Nurse for Corizon Health)

CORIZON HEALTH, INC.,)

Defendants.)

**ENTRY DIRECTING DISMISSAL OF ACTION
AND DIRECTING ENTRY OF FINAL JUDGMENT**

In the Entry of August 25, 2017, the Court noted the recent information that the Seventh Circuit had restricted plaintiff Michael Hickingbottom from filing any papers in any court in this circuit. Plaintiff was directed to show cause why this action should not be dismissed for failure to prosecute because he will not be able to pursue his claims when he cannot file papers in this Court.

Plaintiff responded on September 15, 2017. He first argues that the “three strikes” provision of 28 U.S.C. § 1915(g) should not apply because he is under “imminent danger” of serious physical injury. While the Court disagrees that plaintiff had plead an “imminent danger” case, as he seeks only money damages for injuries sustained several months before this action was filed, the “imminent danger” exception is not applicable to this particular reason for dismissal. 28 U.S.C. § 1915 governs the Court’s ability to allow a plaintiff to proceed *in forma pauperis* in a particular case. It does not apply to the filing restriction at issue here. The Seventh Circuit has decided that because of plaintiff’s repeated filings of frivolous motions, plaintiff should no longer be allowed

to file any papers in the courts of this Circuit. This is true whether or not a filing fee has been paid and whether or not he is in imminent danger (which he is not).

Second, plaintiff argues that the Seventh Circuit erred in issuing the filing restriction. But this Court has no authority to overturn a decision of the Circuit Court. The Seventh Circuit has stated that any papers submitted by Michael Hickingbottom in the courts of this circuit must be returned unfiled. This Court must follow those instructions and plaintiff will not be allowed to file any further papers in this case.

Because plaintiff Michael Hickingbottom is not allowed to file documents in this case, he will not be able to litigate this action. This case is therefore **dismissed without prejudice** for failure to prosecute. Judgement consistent with this Entry shall now issue.

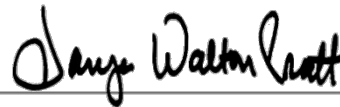
IT IS SO ORDERED.

Date: 9/19/2017

Distribution:

Electronically Registered Counsel

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TANYA WALTON PRATT, JUDGE
United States District Court
Southern District of Indiana