



*Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). Pro se complaints such as that filed by the plaintiff are construed liberally and held to a less stringent standard than formal pleadings drafted by lawyers. *Obriecht v. Raemisch*, 517 F.3d 489, 491 n.2 (7th Cir. 2008).

## II. The Complaint

The plaintiff's complaint, which is full of legal analysis and irrelevant facts, violates Rule 8(a)(2) of the *Federal Rules of Civil Procedure*. That rule requires that pleadings contain "a short and plain statement of the claim showing that the pleader is entitled to relief. . . ." See *United States ex rel. Garst v. Lockheed–Martin Corp.*, 328 F.3d 374, 378 (7th Cir. 2003) ("Rule 8(a) requires parties to make their pleadings straightforward, so that judges and adverse parties need not try to fish a gold coin from a bucket of mud."); *Jennings v. Emry*, 910 F.2d 1434, 1436 (7th Cir. 1990) (complaint "must be presented with sufficient clarity to avoid requiring a district court or opposing party to forever sift through its pages" to determine whether it states a valid claim). In particular, the inclusion of claims which are pending in *Tripp v. Spanenberg*, 2:17-cv-45-JMS-MPB is confusing and unnecessary.

To assist the plaintiff in filing a complaint that complies with Rule 8, the plaintiff is notified that to state a claim for retaliation, he needs only to allege that he engaged in conduct protected by the First Amendment, and that the defendants retaliated against him based on that conduct. See *Walker v. Thompson*, 288 F.3d 1005, 1008–09 (7th Cir. 2002). For example, the plaintiff has no constitutional right to be housed in any particular institution. See *Wilkinson v. Austin*, 545 U.S. 209, 221 (2005) ("[T]he Constitution itself does not give rise to a liberty interest in avoiding transfer to more adverse conditions of confinement."). But, otherwise permissible conduct can become impermissible when done for retaliatory reasons. *Murphy v. Lane*, 833 F.2d 106, 108–09 (7th Cir. 1987) (district court reversed for dismissing complaint challenging otherwise permissible

prison transfer because of sufficient allegation of retaliation). A complaint states a claim for retaliation when it sets forth “a chronology of events from which retaliation may plausibly be inferred.” *Zimmerman v. Tribble*, 226 F.3d 568, 573 (7th Cir. 2000) (quoting *Cain v. Lane*, 857 F.2d 1139, 1143 n.6 (7th Cir. 1988)). “Conversely, alleging merely the ultimate fact of retaliation is insufficient.” *Murphy*, 833 F.2d at 108.

That said, the complaint alleges that the defendants were responsible for filing reports of misconduct (or condoning those reports) which resulted in disciplinary proceedings and the imposition of sanctions. According to the complaint, those sanctions included the deprivation of earned good time, which in turn has the effect of lengthening the anticipated duration of the plaintiff’s confinement. Although the plaintiff does not seek the restoration of these sanctions, the settled law in these circumstances is that when a prisoner makes a claim that, if successful, could shorten his term of imprisonment, the claim must be brought as a habeas petition, not as a § 1983 claim. *Heck v. Humphrey*, 512 U.S. 477 (1994). In *Edwards v. Balisok*, 520 U.S. 641 (1997), the foregoing rule was “extend[ed] . . . to the decisions of prison disciplinary tribunals.” *Gilbert v. Cook*, 512 F.3d 899, 900 (7th Cir. 2007). Accordingly, the claims in this action are dismissed without prejudice insofar as those claims are based on actions attributed to this defendant which resulted in the imposition of a sanction which lengthened the anticipated duration of the plaintiff’s confinement.

### **III. Dismissal of Complaint**

Because the complaint violates Rule 8 and the Court has been unable to identify a viable claim for relief against any particular defendant, the complaint is subject to dismissal.

The dismissal of the complaint will not in this instance lead to the dismissal of the action at present. Instead, the plaintiffs shall have **through October 24, 2017**, in which **to file an amended complaint**.

In filing an amended complaint, the plaintiff shall conform to the following guidelines: (a) the amended complaint shall comply with the requirement of Rule 8(a)(2) of the *Federal Rules of Civil Procedure* that pleadings contain “a short and plain statement of the claim showing that the pleader is entitled to relief. . . .,” which is sufficient to provide the defendant with “fair notice” of the claim and its basis. *Erickson v. Pardus*, 551 U.S. 89, 93 (2007) (per curiam) (citing *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007) and quoting Fed. R. Civ. P. 8(a)(2)); (b) the amended complaint must include a demand for the relief sought; and (c) the amended complaint must identify what legal injury they claim to have suffered and what persons are responsible for each such legal injury. The plaintiff must state his claims “in numbered paragraphs, each limited as far as practicable to a single set of circumstances.” Fed. R. Civ. P. 10(b). The plaintiff is further notified that “[u]nrelated claims against different defendants belong in different suits.” *George v. Smith*, 507 F.3d 605, 607 (7th Cir. 2007).

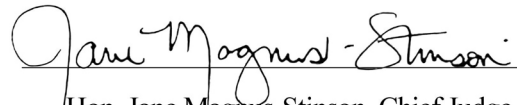
In organizing his complaint, the plaintiff may benefit from utilizing the Court’s complaint form. The **clerk is directed** to include a copy of the prisoner civil rights complaint form along with the plaintiff’s copy of this Entry.

Any amended complaint should have the proper case number, 2:17-cv-428 and the words “Amended Complaint” on the first page. If an amended complaint is filed as directed above, it will be screened. If no amended complaint is filed, this action will be dismissed for the reasons set forth above.

Given the dismissal of the complaint, the plaintiff's premature motion for preliminary injunction seeking transfer to another facility, dkt [6], is **DENIED**.

**IT IS SO ORDERED.**

Date: 9/25/2017

A handwritten signature in black ink that reads "Jane Magnus-Stinson". The signature is written in a cursive style with a horizontal line underlining the name.

Hon. Jane Magnus-Stinson, Chief Judge  
United States District Court  
Southern District of Indiana

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