

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

DANIEL JOSEPH PARRISH-PARRADO,

Petitioner,

vs.

CIVIL ACTION
No. 12-3120-RDR

DOUG WADDINGTON and
LARNED CORRECTIONAL FACILITY,

Respondents.

MEMORANDUM AND ORDER

Plaintiff, a prisoner in state custody, filed a petition for writ of mandamus and sought leave to proceed in forma pauperis. Petitioner is subject to the provisions of 28 U.S.C. § 1915(g), which provides that:

"In no event shall a prisoner bring a civil action or appeal a judgment in a civil action or proceeding under this section if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury." 28 U.S.C. § 1915(g).

Court records in the District of Kansas reflect that plaintiff has filed more than thirty cases in this court and that at least three of those cases were dismissed for failure to

state a claim for relief.¹

On July 6, 2012, the court denied the present petition for failure to state a claim for relief. Shortly after the dismissal was entered on the docket, the clerk of the court received the filing fee from petitioner. Petitioner now has submitted a Notice of Appeal (Doc. 16). While petitioner has not renewed his request to proceed in forma pauperis, the court has examined the Notice of Appeal² and finds no showing that petitioner is in imminent danger of serious physical harm.

IT IS, THEREFORE, BY THE COURT ORDERED that plaintiff is granted thirty (30) days from the date of this order to submit the \$455.00 appellate filing fee to the clerk of this court.

1 Plaintiff has filed cases under different names, including Daniel Joseph Kirwan, Michael Duane Pyle, Daniel Joseph Parrish, Daniel Parrado, and Daniel Parrish-Parrado. The cases identified as the basis of this order are Case No. 92-3357, *Kirwan v. Larned Mental Health*, 816 F. Supp. 672 (D. Kan. 1993) (dismissing as legally frivolous plaintiff's claims that officials' continued use of his former legal name, under which he was convicted, violated his constitutional rights); Case No. 91-3217, *Kirwan v. Huggins*, 1991 WL 158842 (dismissing as frivolous plaintiff's claim of excessive heat and lack of electric fan); and Case No. 88-3416, *Kirwan v. Appel*, 1988 WL 142902 (dismissing for failure to state a claim plaintiff's allegations of denial of use of a typewriter, writing table, and chair, and allegations that defendant corrections employees sabotaged a cell house and criminally defamed plaintiff).

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The Notice of Appeal appears to seek the removal of this action to the U.S. Department of Justice but identifies no authority for such removal.

Copies of this order shall be transmitted to the petitioner and to the Clerk of the U.S. Court of Appeals for the Tenth Circuit.

IT IS SO ORDERED.

Dated at Topeka, Kansas, this 30th day of July, 2012.

S/ Richard D. Rogers
RICHARD D. ROGERS
United States Senior District Judge