

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
CENTRAL DIVISION
FRANKFORT

JIMMIE BAILEY,

Plaintiff,

v.

KENTUCKY DEPARTMENT OF
CORRECTIONS, et al.,

Defendants.

)
)
)
)
)
)
)
)
)
)
)

Case No. 3:19-cv-00053-GFVT

MEMORANDUM OPINION
&
ORDER

*** **

Jimmie Bailey is an inmate currently confined at the Green River Correctional Complex in Central City, Kentucky, but previously confined at a variety of other Kentucky Department of Corrections facilities. Bailey has filed a pro se civil rights complaint pursuant to 42 U.S.C. § 1983 [R. 1], and the Court granted his motion to proceed in forma pauperis by prior order. [R. 6.] The Court now conducts an initial screening of Bailey’s complaint pursuant to 28 U.S.C. §§ 1915(e)(2), 1915A. See Hill v. Lappin, 630 F.3d 468, 47071 (6th Cir. 2010).

In his complaint, Bailey alleges that the Kentucky Department of Corrections and a variety of individual defendants have failed to apply the appropriate amount of good time credit to his sentence. Bailey does not seek monetary damages but rather “seeks to reverse the decision held by the Kentucky Department of Corrections, and affirm Petitioner’s declaratory request of 180 days educational good time credit to be awarded to Petitioner’s sentence time.” [R. 1 at 5.] This is a claim Bailey must make in a habeas, not 42 U.S.C. § 1983, proceeding.

Pursuant to Preiser v. Rodriguez, 411 U.S. 475 (1973), the restoration of good time credits must be litigated in a petition for a writ of habeas corpus, not a civil rights complaint. See

Preiser, 411 U.S. at 500 (“[W]hen a state prisoner is challenging the very fact or duration of his physical imprisonment, and the relief he seeks is a determination that he is entitled to immediate release or a speedier release from that imprisonment, his sole federal remedy is a writ of habeas corpus.”); *Wolff v. McDonnell*, 418 U.S. 539, 554 (1974). The Court further notes that Bailey may only seek federal habeas corpus relief after exhausting all remedies available from the state courts. See 28 U.S.C. § 2254(b)(1)(A). Because Bailey’s only request for relief—the application of 180 days of good time credit to his sentence—is not cognizable in this civil rights action, Bailey has failed to state a claim upon which relief may be granted. His case will thus be dismissed upon screening. See 28 U.S.C. §§ 1915(e)(2), 1915A.

Accordingly, the Court hereby **ORDERS** as follows:

1. Plaintiff Bailey’s complaint [R. 1] is **DISMISSED**;
2. Judgment shall be entered contemporaneously herewith; and
3. This matter is **STRICKEN** from the Court’s active docket.

This the 16th day of August, 2019.

The image shows a handwritten signature in black ink, which appears to read "Gregory F. Van Tatenhove". The signature is written over a circular official seal. The seal contains the text "UNITED STATES DISTRICT COURT" at the top and "EASTERN DISTRICT OF KENTUCKY" at the bottom. In the center of the seal is an eagle with its wings spread, perched on a shield.

Gregory F. Van Tatenhove
United States District Judge