

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

MICHAEL R. STEMPLER,

*

Plaintiff,

*

v.

*

Civil Action No. CCB-20-3309

WARDEN,

*

Defendant.

*

MEMORANDUM OPINION

Michael Stemple filed this complaint on February 24, 2021, alleging that his property, including legal papers, was improperly confiscated and not returned to him after a search of his cell at Patuxent Institution. ECF 1. He also asserted that he has been in administrative segregation since May 13, 2020, although he was found not guilty of the “ticket” (which presumably led to his administrative segregation). *Id.*

On February 24, 2021, the court dismissed Stemple’s loss of property claim to the extent that he intended to bring a claim for violation of due process under the Fourteenth Amendment of the United States Constitution, and granted him twenty-eight days to clarify the claims based on his legal papers and administrative segregation. ECF 3. Additionally, the Court directed Stemple to pay the filing fee or file a Motion for Leave to Proceed in Forma Pauperis. *Id.* Since Stemple has not paid the filing fee or filed a motion for leave to proceed in forma pauperis to date, the court will grant him leave to proceed as an indigent for the limited purpose of screening the complaint pursuant to 28 U.S.C. §§ 1915(e)(2) and 1915A(b)(1).¹

¹ Stemple has been granted leave to proceed in forma pauperis based on his financial affidavits and prisoner account statements in other civil cases he has filed as a self-represented litigant. *See e.g. Stemple v. Warden*, Civil Action No. CCB-19-1117; *Stemple v. Warden of MCI-H*, Civil Action No. CCB-17-1782.

On April 13, 2021, Stemple, more than twenty-eight days after the time to file an amended complaint had passed, Stemple submitted a filing titled “Order.” ECF 4. The filing was unresponsive to the court’s order to file an amended complaint and contained information insufficient to state a cognizable claim regarding his legal papers, and on April 19, 2021, the court dismissed the legal papers claim for failure to state a claim pursuant to 28 U.S.C. §1915A(b)(1). The court also granted Stemple until May 14, 2021, to file an amended complaint to clarify his administrative segregation claim. ECF 5.

On May 10, 2021, Stemple filed a paper titled “Order-Motion,” which neither is an amended complaint nor provides facts to state a cognizable federal claim based on his allegation concerning his placement on administrative segregation. ECF 6.²

The court has twice granted Stemple opportunities to file an amended complaint to clarify his claims and provide supporting facts. ECF 3, 5. Stemple was cautioned that failure to comply may result in the dismissal of the Complaint with prejudice pursuant to 28 U.S.C. §§ 1915(e)(2)(B)(ii) and 1915A(b)(1), and his right to file a complaint in federal court without first paying the filing fee (\$402) will be greatly curtailed if he has three actions or appeals dismissed under the provisions of 28 U.S.C. §§ 1915(e)(2)(B)(i)(ii) and 1915A(b)(1) as frivolous, malicious, or for failure to state a claim while he is incarcerated. *See* 28 U.S.C. § 1915(g).

Stemple has failed to comply with the court’s orders to clarify his claims and amend the Complaint. The Complaint fails to state a claim upon which relief may be granted and this case will be dismissed with prejudice pursuant to 28 U.S.C. §§ 1915(e)(2)(B)(ii) and 1915A(b)(1).

² Stemple alleges that on April 21, 2021, he was assaulted in in the recreation room at Patuxent Institution. He asks for appointment of counsel for the injury to his “head and eye.” ECF 6 at 2. Stemple may pursue these allegations by filing a separate complaint that names the individuals he holds responsible for the assault, specifies the nature of his head and eye injury, and states the relief he seeks. He may also file a motion for appointment of counsel in that case. He may not, however, raise new, seemingly unrelated claims in this case.

Accordingly, it is this 7th day of June 2021, by the United States District Court for the District of Maryland, hereby ordered:

1. Stemple IS GRANTED leave to proceed in forma pauperis;
2. The Complaint IS DISMISSED with prejudice pursuant to 28 U.S.C. §§ 1915(e)(2)(B)(ii) and 1915A(b)(1) without requiring service on defendant;
3. The Clerk SHALL FLAG this case as a STRIKE;
4. Stemple IS FOREWARNED that after a third dismissal under 28 U.S.C. §1915(e), he will not be permitted to file a civil action or proceeding unless he pays the full filing fee or proves he is under imminent danger of serious physical injury;
5. The Clerk SHALL PROVIDE a copy of this Order and a blank complaint forms packet to Stemple; and
6. The Clerk SHALL CLOSE this case.

/s/
Catherine C. Blake
United States District Judge