

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ERIC MARTIN, #165780,

Plaintiff,

v.

CASE NO. 2:12-CV-14863
HONORABLE ARTHUR J. TARNOW

S. KAZULKINA, et al.,

Defendants.

**OPINION AND ORDER DISMISSING WITHOUT PREJUDICE THE CIVIL
RIGHTS COMPLAINT, DENYING THE APPLICATION TO PROCEED
WITHOUT PREPAYMENT OF FEES OR COSTS, AND CONCLUDING
THAT AN APPEAL CANNOT BE TAKEN IN GOOD FAITH**

Michigan prisoner Eric Martin (“Plaintiff”), currently confined at the Macomb Correctional Facility in New Haven, Michigan has filed a *pro se* civil rights complaint pursuant to 42 U.S.C. § 1983 alleging that he is being given medication against his will. He names medical personnel and corrections officials as defendants in this action and seeks injunctive relief and monetary damages.

Plaintiff’s claims, however, are duplicative to claims that he has raised in another, previously-filed civil rights action, Case No. 2:12-CV-14286, which is currently pending before the Honorable Gerald E. Rosen. This Court will not entertain duplicative or similar claims in two different cases. *See, e.g., Childress v. Cole*, No. 2:10-CV-14821, 2011 WL 163429, *3 (E.D. Mich. Jan. 19, 2011) (dismissing civil rights complaint in part as duplicative to pending case); *Scott v. Burress, et al.*, No. 2:09-CV-10916, 2009 WL 891695 (E.D. Mich. March 31, 2009) (dismissing civil rights case as duplicative); *see also Davis v. United States Parole Comm’n*, 870 F.2d 657, 1989 WL 25837, *1 (6th Cir. March 7, 1989) (court may dismiss habeas petition as duplicative of pending petition when the second is essentially the same as the first). Accordingly, Plaintiff’s claims

concerning his medication must be addressed in Case No. 2:12-CV-14286. His present complaint shall therefore be dismissed without prejudice to the complaint filed in that case. No fees shall be assessed for this filing.¹

Accordingly, for the reasons stated, the Court **DISMISSES WITHOUT PREJUDICE** the civil rights complaint and **DENIES** the application to proceed without prepayment of fees or costs. The Court also concludes that an appeal from this order would be frivolous and cannot be taken in good faith. *See* 28 U.S.C. § 1915(a)(3); *McGore v. Wrigglesworth*, 114 F.3d 601, 610-11 (6th Cir. 1997).

IT IS SO ORDERED.

S/Arthur J. Tarnow
Arthur J. Tarnow
Senior United States District Judge

Dated: November 7, 2012

I hereby certify that a copy of the foregoing document was served upon parties/counsel of record on November 7, 2012, by electronic and/or ordinary mail.

S/Catherine A. Pickles
Judicial Assistant

¹The Court notes that Plaintiff was likely trying to correct a copy deficiency in Case No. 2:12-CV-14286, but the materials were inadvertently filed as a new case due to the lack of proper labeling. The copies he submitted with this case will be applied to Case No. 2:12-CV-14286 to correct the deficiency.