

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

ROBERT HARDEN,	)	4:08CV3259
	)	
Plaintiff,	)	
	)	
v.	)	<b>MEMORANDUM</b>
	)	<b>AND ORDER</b>
M.A. YAH, et al.,	)	
	)	
Defendants.	)	

This matter is before the court on Plaintiff’s Motion for Leave to Proceed In Forma Pauperis (“IFP”). (Filing No. [2](#).) As set forth in the Prison Litigation Reform Act, a prisoner cannot:

[B]ring a civil action . . . or proceeding [in forma pauperis] if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action . . . 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.

[28 U.S.C. §1915\(g\)](#).

The following three cases brought by Plaintiff were dismissed because they failed to state a claim upon which relief may be granted:

- *Harden v. State of Iowa*, No. 4:07CV3154 (D. Neb.), dismissed on June 19, 2007. (Case No. 4:07CV3154, Filing Nos. [5](#) and [6](#).)
- *Harden v. Emmetsburg, Iowa, et al.*, No. 8:06CV770 (D. Neb.), dismissed on February 5, 2007. (Case No. 8:06CV770, Filing Nos. [5](#) and [6](#).)

- *Harden v. Harden, et al.*, No. 8:07CV68 (D. Neb.), dismissed on February 28, 2007. (Case No. 8:07CV68, Filing Nos. [9](#) and [10](#).)

Accordingly, Plaintiff has until February 9, 2009, to show cause why this matter should not be dismissed pursuant to [28 U.S.C. §1915\(g\)](#). Alternatively, Plaintiff may pay the full \$350.00 filing fee no later than February 9, 2009. In the absence of good cause shown or the payment of the full filing fee, Plaintiff's Complaint and this matter will be dismissed without further notice.

IT IS THEREFORE ORDERED that:

1. Plaintiff has until February 9, 2009, to either show cause why this case should not be dismissed pursuant to [28 U.S.C. §1915\(g\)](#) or pay the full \$350.00 filing fee. In the absence of either action by Plaintiff, this matter will be dismissed without further notice.

2. The Clerk of the court is directed to set a pro se case management deadline in this matter with the following text: February 9, 2009: Deadline for Plaintiff to show cause or pay full filing fee.

January 7, 2009.

BY THE COURT:

s/ Joseph F. Bataillon  
Chief United States District Judge