Mumin v. Frakes et al Doc. 28

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

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|---|---|---|
| DUKHAN MUMIN, | ) | 4:17CV3032 |
| | ) | |
| Plaintiff, | ) | |
| | ) | MEMORANDUM |
| v. | ) | AND ORDER |
| | ) | |
| SCOTT FRAKES, et al., | ) | |
| | ) | |
| Defendants. | ) | |
| | ) | |

Plaintiff has filed a notice of appeal (Filing No. 24), which the court liberally construes as including a request to proceed in forma pauperis on appeal.

Plaintiff is a prisoner who has not been allowed to proceed in forma pauperis in this action because he has on three prior occasions, while incarcerated, brought an action in this court that was dismissed as frivolous or for failure to state a claim upon which relief can be granted, and Plaintiff has not shown he is in imminent danger of serious physical injury. *See* 28 U.S.C. §1915(g).

In his notice of appeal, Plaintiff reasserts that he will suffer respiratory damage because of exposure to methane gas and black mold, but, as explained in the court's previous memorandum and order (Filing No. 22), this speculative injury does not fall within the exception to § 1915(g).

Accordingly,

IT IS ORDERED that Plaintiff's request to proceed in forma pauperis on appeal is denied.

DATED this 11th day of May, 2017.

BY THE COURT:

s/ *Richard G. Kopf*
Senior United States District Judge

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