

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

JUAN BRADLEY,)	8:10CV369
)	
Plaintiff,)	
)	
v.)	MEMORANDUM
)	AND ORDER
WARREN K. URBOM, et al.,)	
)	
Defendants.)	

This matter is before the court on Plaintiff’s “Motion to Reassign Judge,” which the court liberally construes as a Motion for Recusal, and Plaintiff’s response to the court’s previous order requiring him to show cause why he is entitled to proceed in forma pauperis (“IFP”) in this matter. (Filing No. [10](#).) As set forth below, the court finds that Plaintiff’s Motion should be denied and this matter should be dismissed.

I. MOTION FOR RECUSAL

In Plaintiff’s Motion for Recusal, Plaintiff alleges the undersigned judge is racist and conspiring with others to kill him, and should therefore “leave office.” (*Id.* at CM/ECF pp. 1-2.) The court has carefully reviewed Plaintiff’s Motion in accordance with [28 U.S.C. § 455\(a\)](#), and finds there is nothing indicating that the court’s “impartiality might reasonably be questioned” or that there is any other basis for recusal or reassignment in this matter. Accordingly, Plaintiff’s Motion for Recusal (filing no. [10](#)) will be denied.

II. RESPONSE TO NOVEMBER 8, 2010, MEMORANDUM AND ORDER

A. Background

Plaintiff, while incarcerated, filed a Complaint and a Motion for Leave to Proceed IFP on October 1, 2010. (Filing Nos. [1](#) and [2](#).) On November 8, 2010, the court ordered Plaintiff to either show cause why he is entitled to proceed IFP, or pay the full \$350 filing fee by December 8, 2010, or his case would be dismissed. (Filing No. [9](#) at CM/ECF p. 2.) The court's order was based on the provisions set forth in [28 U.S.C. § 1915\(g\)](#), and also the court's finding that Plaintiff brought the following four cases while incarcerated, all of which were dismissed as frivolous:

- [Bradley v. Urbom, et al., Case No. 8:92CV54 \(D. Neb.\)](#), dismissed as frivolous on March 10, 1992.
- [Bradley v. The Senate, et al., Case No. 8:92CV96 \(D. Neb.\)](#), dismissed as frivolous on May 7, 1992.
- [Bradley v. U.S. District Court, et al., Case No. 8:92CV127 \(D. Neb.\)](#), dismissed as frivolous on March 13, 1992.
- [Bradley v. Urbom, et al., Case No. 8:92CV188 \(D. Neb.\)](#), dismissed as frivolous on April 13, 1992.

On November 12, 2010, Plaintiff filed a response to the court's Memorandum and Order where he set forth various reasons his case should not be dismissed. (Filing No. [10](#).)

B. Analysis

A prisoner may not bring a civil action or proceed IFP if the prisoner has, on three or more occasions, while incarcerated, brought an action or appeal in federal

court 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\(g\)](#). An exception is made for prisoners who are under imminent danger of serious physical injury. *Id.*

In its previous Memorandum and Order, the court ordered Plaintiff to show cause why his case should not be dismissed pursuant to [§ 1915\(g\)](#). (Filing No. [9](#) at CM/ECF p. 2.) The court listed four cases brought by Plaintiff that were dismissed because they were frivolous. (*Id.* at CM/ECF pp. 1-2.) For Plaintiff to proceed IFP, he needed to show the court that any or all of the four dismissed cases do not meet the criteria set forth in [§ 1915\(g\)](#) or, alternatively, that he faces imminent danger of serious physical injury.

In Plaintiff's response to the court's November 8, 2010, Memorandum and Order (filing no. [9](#)), Plaintiff alleges that his previous complaints "were not frivolous, they just failed to state some claims." (Filing No. [10](#) at CM/ECF p. 1.) However, this general assertion is insufficient to show that Case Numbers 8:92CV54, 8:92CV96, 8:92CV127, and 8:92CV188 do not meet the criteria set forth in [§ 1915\(g\)](#).

In Plaintiff's response, he also alleges that his "life is in danger" (filing no. [10](#) at CM/ECF p. 2), but makes no credible argument to support his allegation. Though unclear, the court presumes Plaintiff's allegation that his life is in danger is based on Plaintiff's statements that the undersigned judge and other government officials are racist and trying to kill him. (*Id.*) However, these general assertions are insufficient to invoke the [§ 1915\(g\)](#) exception. In short, Plaintiff has not shown that he is entitled to proceed IFP, nor has he paid the full \$350 filing fee. For these reasons, this matter must be dismissed.

IT IS THEREFORE ORDERED that:

1. Petitioner's Motion for Recusal (filing no. [10](#)) is denied.

2. This matter is dismissed without prejudice.

3. A separate judgment will be entered in accordance with this Memorandum and Order.

DATED this 17th day of December, 2010.

BY THE COURT:

Richard G. Kopf

United States District Judge

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