

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

RUDY STANKO, Individually)	
and on behalf of similarly)	
situated citizens,)	
)	
Plaintiff,)	8:11CV245
)	
v.)	
)	
UNITED STATES OF AMERICA,)	MEMORANDUM AND ORDER
)	
Defendant.)	
_____)	

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 ("PLRA"), a prisoner cannot:

[B]ring a civil action or appeal a judgment in 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, unless the prisoner is under imminent danger of serious physical injury.

[28 U.S.C. §1915\(g\)](#).

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

- [Stanko v. Federal Bureau of Prisons, No. 09-CV-035-HRW \(E.D. Ky. April 21, 2009\)](#), dismissed for failure to state a claim upon which relief may be granted on April 21, 2009.
- [Stanko v. Bataillon, No. 8:06CV607, 2007 WL 685663 \(D. Neb. Feb. 28, 2007\)](#), dismissed as frivolous and for failure to state a claim upon which relief may be granted, and affirmed on October 23, 2007.
- *Stanko v. United States*, No. 8:10CV151 (D. Neb.), dismissed as frivolous on November 18, 2010, and affirmed on April 8, 2011. (Case No. 8:10CV151, Filing Nos. [15](#), [16](#) and [25](#).)

Accordingly, plaintiff has until **August 18, 2011**, to show cause why he is entitled to proceed IFP pursuant to [28 U.S.C. §1915\(g\)](#). Alternatively, plaintiff may pay the full \$350.00 filing fee no later than **August 18, 2011**. 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 ORDERED:

1. Plaintiff's motion for leave to proceed in forma pauperis (Filing No. [2](#)) is denied. Plaintiff has until **August 18, 2011**, to either show cause why he is entitled to proceed IFP 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:

August 18, 2011: deadline for plaintiff to show cause or pay full filing fee.

DATED this 22nd day of July, 2011.

BY THE COURT:

/s/ Lyle E. Strom

LYLE E. STROM, Senior Judge
United States District Court

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