

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

MARVEL JONES,

8:13CV67

Plaintiff,

v.

**MEMORANDUM
AND ORDER**

NEBRASKA DEPARTMENT OF
CORRECTIONAL SERVICES
OFFICIALS, et al.

Defendants.

This matter is before the court on its own motion. On March 25, 2013, the court granted Plaintiff's Motion for Leave to Proceed in Forma Pauperis ("IFP"). (Filing No. [8](#).) However, upon further review, it appears that Plaintiff is not entitled to proceed IFP in this matter without first showing a danger of imminent harm. As set forth in the Prison Litigation Reform Act ("PLRA"), a prisoner cannot:

[B]ring a civil action . . . or proceeding [in forma pauperis] under this section 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\(g\)](#) (emphasis added).

The following three cases brought by Plaintiff were dismissed because they failed to state a claim upon which relief may be granted: *Jones v. Lancaster Co., et al.*, No. 4:99CV3240 (D. Neb.), dismissed on November 22, 1999; *Jones v. Carmicheal, et al.*, No. 4:00CV3235 (D. Neb.), dismissed on July 18, 2001; and *Jones v. Dep't of Corr. Servs., et al.*, No. 4:05CV3125 (D. Neb.), dismissed on March 12, 2007.

Accordingly, Plaintiff has until May 19, 2014, to show cause why he is entitled to proceed in forma pauperis pursuant to [28 U.S.C. §1915\(g\)](#). Alternatively, Plaintiff may pay the remainder of the court's \$350.00 filing fee no later than May 19, 2014. In the absence of good cause shown or the payment of the court's filing fee, Plaintiff's Complaint and this matter will be dismissed without further notice.

IT IS THEREFORE ORDERED that:

1. The court's previous Memorandum and Order granting Plaintiff's Motion for Leave to Proceed in Forma Pauperis (Filing No. [8](#)) is stricken, and Plaintiff's Motion for Leave to Proceed in Forma Pauperis (Filing No. [2](#)) remains pending.

2. Plaintiff has until May 19, 2014, to either show cause why he is entitled to proceed IFP pursuant to [28 U.S.C. §1915\(g\)](#) or pay the court's \$350.00 filing fee. In the absence of either action by Plaintiff, this matter will be dismissed without further notice.

3. The Clerk of the court is directed to set a pro se case management deadline in this matter with the following text: May 19, 2014: Deadline for Plaintiff to show cause or pay full filing fee.

DATED this 18th day of April, 2014.

BY THE COURT:

s/ Joseph F. Bataillon
United States District Judge

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