UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

ROBERT P. CLARK,

Plaintiff,

vs.

STATE OF NEVADA DEPARTMENT OF CORRECTIONS, *et al.*

Defendants.

3:12-cv-00515-RCJ-WGC

ORDER

Plaintiff, a Nevada state inmate, has filed an application (#1) to proceed *in forma pauperis* seeking to initiate a civil rights action along with a motion (#3) for appointment of counsel.

Plaintiff has not submitted a proper application to proceed *in forma pauperis*. Under 28 U.S.C. § 1915(a)(2) and Local Rules LSR 1-1 and 1-2, a plaintiff must submit an application on the Court's required form. The application was submitted on a superceded form. The current required form was revised effective July 21, 2008. The Court will direct the Clerk to provide plaintiff copies of the current form so that he may file a proper application.

It does not appear from review of the allegations presented that a dismissal without prejudice would materially impact the analysis of a timeliness issue or other issues as to a promptly-filed new action.[1]

[1]From the allegations presented, it appears subject to substantial question whether the action is cognizable in a federal civil rights action as opposed to a federal habeas action following exhaustion of state judicial remedies. Petitioner is seeking to challenge administrative action that he alleges deprived him of more than 260 days of sentencing credit. As plaintiff's claims appear to necessarily challenge the duration of

(continued...)

IT THEREFORE IS ORDERED that the application (#1) to proceed *in forma pauperis* is DENIED without prejudice.

IT FURTHER IS ORDERED that the motion (#3) for appointment of counsel is DENIED without prejudice.

IT FURTHER IS ORDERED that this action is DISMISSED without prejudice to the filing of a new complaint in a new action together with either the required $350.00 filing fee or a properly completed application to proceed *in forma pauperis* on the proper form and with all required, and new, financial attachments.

IT FURTHER IS ORDERED that the clerk shall SEND plaintiff two copies each of an *in forma pauperis* application form for a prisoner and a § 1983 complaint form, one copy of the instructions for each form, and one copy of the papers that plaintiff submitted in this action.

The Clerk shall enter final judgment accordingly, dismissing this action without prejudice.

DATED: January 7, 2013.

ROBERT C. JONES
Chief United States District Judge

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[1](...continued)
his confinement, it would appear that he may not proceed via a federal civil rights action at this juncture. In any event, the operative factual allegations begin in July 21, 2011, well within the otherwise applicable two-year statute of limitations if the claims are cognizable in the first instance. In the final analysis, it is plaintiff's responsibility to timely seek relief in an appropriate procedural vehicle in a proper court. The Court leaves a definitive resolution of any such issues to a properly-commenced action. The Court notes these issues only in finding that a dismissal without prejudice of the present improperly-commenced action will not materially impact the consideration of such issues in a promptly-filed new action.