

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

SCOTT BURHYTE,	:	
	:	Civil Action No. 09-1648 (NLH)
Plaintiff,	:	
	:	
v.	:	ORDER
	:	
FEDERAL BUREAU OF PRISONS,	:	
et al.,	:	
	:	
Defendants.	:	CLOSED

For the reasons expressed in the Opinion filed herewith,
IT IS on this 2ND day of December, 2009,
ORDERED that Plaintiff's application to proceed in forma pauperis is hereby granted pursuant to 28 U.S.C. § 1915(a) and (b); and it is further

ORDERED that the Clerk of the Court shall file the Amended Complaint without prepayment of fees or security; and it is further

ORDERED that, pursuant to 28 U.S.C. § 1915(b), the Clerk shall serve a copy of this Order by regular mail upon the U.S. Attorney for the District of New Jersey and the warden of the Federal Correctional Institution at Fort Dix; and it is further

ORDERED that the Amended Complaint is DISMISSED WITHOUT PREJUDICE; and it is further

ORDERED that this dismissal shall count as a "strike" for purposes of 28 U.S.C. § 1915(g); and it is further

ORDERED that Plaintiff may file a motion to re-open, which must be accompanied by a proposed second amended complaint, within 30 days after entry of this Order; and it is further

ORDERED that if the proposed Second Amended Complaint is found to be deficient, it shall be dismissed with prejudice and no further opportunities to amend shall be granted; and it is further

ORDERED that Plaintiff is assessed a filing fee of \$350.00 which shall be deducted from Plaintiff's institutional account pursuant to 28 U.S.C. § 1915(b) (2) in the manner set forth below, regardless of the outcome of the litigation; and it is further

ORDERED that, pursuant to 28 U.S.C. § 1915(b) (2), until the \$350.00 fee is paid, each month that the amount in Plaintiff's prison account exceeds \$10.00, the agency having custody of Plaintiff shall assess, deduct from his institutional account, and forward to the Clerk payments equal to 20% of the preceding month's income credited to Plaintiff's institutional account, with each payment referencing the civil docket number of this action.

At Camden, New Jersey

/s/ NOEL L. HILLMAN
Noel L. Hillman
United States District Judge