

CLOSED

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

_____	:	
WESLEY O. LANHAM,	:	Civil No. 10-1959 (RBK)
	:	
Plaintiff,	:	
	:	
v.	:	<u>ORDER</u>
	:	
FED. BUREAU OF PRISONS, et al.,	:	
	:	
Defendants.	:	
_____	:	

For the reasons expressed in the Opinion filed herewith,

IT IS on this 14th day of May, 2010,

ORDERED that Plaintiff's application to proceed in forma pauperis is hereby granted and the Clerk shall file the Complaint without prepayment of the filing fee; and it is further

ORDERED that the claims against the Federal Bureau of Prisons and the United States Department of Justice are DISMISSED WITH PREJUDICE; and it is further

ORDERED that claims regarding deficiencies in the administrative remedy process are DISMISSED WITH PREJUDICE for failure to state a claim upon which relief may be granted; and it is further

ORDERED that the remaining Eighth Amendment medical care claim against Warden Zickefoose is DISMISSED for failure to state a claim upon which relief may be granted; and it is further

ORDERED that, within 30 days of the date of the entry of this Order, Plaintiff may file an amended complaint stating a cognizable Eighth Amendment medical care claim; and it is further

ORDERED that, if Plaintiff files an amended complaint within 30 days of the date of the entry of this Order, then the Court will thereafter enter an order reopening the file and screening the amended complaint for dismissal; and it is further

ORDERED that, pursuant to 28 U.S.C. § 1915(b), the Clerk shall forward a copy of this Order by regular mail to the warden of FCI Fort Dix; and it is further

ORDERED that Plaintiff is assessed a filing fee of \$350.00 which shall be deducted from his prison 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)(1)(A), Plaintiff is assessed an initial partial filing fee equal to 20% of the average monthly deposits to the Plaintiff's prison account for the six month period immediately preceding the filing of the Complaint; when funds exist, the Bureau of Prisons shall deduct said initial fee from Plaintiff's prison account and forward it to the Clerk; and it is further

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

ORDERED that the Clerk shall serve this Order and the accompanying Opinion on Plaintiff by regular mail and shall close the file.

s/Robert B. Kugler
ROBERT B. KUGLER, U.S.D.J.