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UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF OHIO

ALEJANDRO HERNANDEZ,) CASE NO. 1:13 CV 2669
Plaintiff,)
v.) <u>MEMORANDUM OF OPINION</u>) AND ORDER
M. BODINE,)
Defendant.)

On December 4, 2013, Alejandro Hernandez, an inmate at the Northeast Ohio Correctional Center ("NEOCC"), filed this *pro se* action against M. Bodine, an employee in the NEOCC business office. Hernandez seeks a "judgment lien" against Bodine, alleging she has improperly removed funds from his prisoner account to pay installments on the assessment order entered by this court in Case No. 4:12 CV 2040. *See, Hernandez v. Pugh*, Case No. 4:12 CV 2040. For the reasons stated below, this action is dismissed.

A district court is expressly required to dismiss any civil action filed by a prisoner seeking relief from a governmental officer or entity, as soon as possible after docketing, if the court concludes that the complaint fails to state a claim upon which relief may be granted, or if the plaintiff seeks monetary relief from a defendant who is immune from such relief. 28 U.S.C. §1915A; *Siller v. Dean*, No. 99-5323, 2000 WL 145167, at *2 (6th Cir. Feb. 1, 2000).

Principles requiring generous construction of *pro se* pleadings are not without limits. *Beaudett v. City of Hampton*, 775 F.2d 1274, 1277 (4th Cir. 1985). A complaint must contain either direct or inferential allegations respecting all the material elements of some viable legal theory to satisfy federal notice pleading requirements. *See Schied v. Fanny Farmer Candy Shops, Inc.*, 859 F.2d 434, 437 (6th Cir. 1988). District courts are not required to conjure up questions never squarely presented to them or to construct full blown claims from sentence fragments. *Beaudette*, 775 F.2d at 1278. To do so would "require ...[the courts] to explore exhaustively all potential claims of a *pro*

se plaintiff, ... [and] would...transform the district court from its legitimate advisory role to the

improper role of an advocate seeking out the strongest arguments and most successful strategies for

a party." Id.

The procedure for deducting installments from plaintiff's account as payment for the filing

fee in his previous case is provided by statute. 28 U.S.C. § 1915(b)(1); McGore v. Wrigglesworth,

114 F.3d 601, 607 (6th Cir. 1997). Further, his failure to identify a particular legal theory places an

unfair burden on defendant to speculate on the potential claims he may be raising and the defenses

which could be asserted in response. Wells v. Brown, 891 F.2d 591, 594 (6th Cir. 1989). Thus, even

liberally construed, the complaint does not contain allegations reasonably suggesting plaintiff might

have a valid federal claim. See, Lillard v. Shelby County Bd. of Educ,, 76 F.3d 716 (6th Cir.

1996)(court not required to accept summary allegations or unwarranted legal conclusions in

determining whether complaint states a claim for relief).

Accordingly, this action is dismissed under section 1915A. Further, the court certifies,

pursuant to 28 U.S.C. § 1915(a)(3), that an appeal from this decision could not be taken in good

faith.

IT IS SO ORDERED.

Date: April 17, 2014

/s/ John R. Adams

JOHN R. ADAMS

UNITED STATES DISTRICT JUDGE

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