McCarthy v. Ebbert et al Doc. 9

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

JOHN J. McCARTHY,	:	
	:	
Plaintiff	:	
	:	CIVIL NO. 1:CV-16-0331
vs.	:	
	:	(Judge Caldwell)
WARDEN EBBERT, *et al.*,	:	
	:	
Defendants	:	

O R D E R

And now, this 24th day of April, 2017, in accordance with the accompanying memorandum, it is ORDERED that:

1. Plaintiff's motion for leave to proceed *in forma pauperis* (ECF No. 5) is construed as a motion to proceed without full prepayment of fees and costs, and is GRANTED.

2. Plaintiff's claims against the sole named defendant, Warden Ebbert, are dismissed pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) for failure to state a claim for which relief can be granted.

3. Within twenty-one (21) days from the date of this order, Plaintiff may file a second amended complaint in this action in accordance with the foregoing Memorandum.

4. The Clerk of Court shall forward to Plaintiff two (2) copies of this Court's prisoner civil-rights complaint form which Plaintiff shall use in preparing any second amended complaint he may file.

5. Failure to file a second amended complaint as directed within the required time will result in this action being dismissed pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) for the reasons set forth in the accompanying Memorandum.

/s/ William W. Caldwell
William W. Caldwell
United States District Judge

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