

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

DWAYNE ALMOND,

Plaintiff,

OPINION and ORDER

v.

14-cv-05-bbc

WILLIAM POLLARD, PAUL SUMNIGHT,
AMY SCHRAUFNGED, S. JACKSON,
ANGLIA KROLL, DAVID BURNETT,
SCOTT HOFTIEZER, JIM GREER,
MARY MUSE, BELINDA SCHRUBBE
and OFFICIAL JONES,

Defendants.

Plaintiff Dwayne Almond, a prisoner incarcerated at the Waupun Correctional Institution, has a long history of unsuccessful litigation in this court. In an August 28, 2013 order in plaintiff's most recent case, I imposed the following sanction:

As a means of avoiding additional waste of court resources responding to frivolous complaints containing only the magic words "imminent danger" rather than conditions truly passing muster under § 1915(g), the court will bar plaintiff from proceeding in forma pauperis on future "imminent danger" claims relating to his perceived back and abdomen ailments unless plaintiff's complaint is accompanied by records showing that plaintiff has been diagnosed with new ailments and is failing to receive treatment for them. Future "imminent danger" lawsuits filed by plaintiff regarding back and abdomen problems that do not include such documentation will be deemed automatically dismissed after 30 days unless the court orders otherwise. Alexander v. United States, 121 F.3d 312, 315 (7th Cir.1997).

Almond v. Pollard, case no. 12-cv-259-bbc (W.D. Wis. Aug. 28, 2013).

Plaintiff's complaint in this case does not relate to his back or abdomen. Rather, he states that he has had a small bleeding hemorrhoid for more than ten months that has gone untreated. In a February 14, 2014 order, I stated that plaintiff's allegations met neither the imminent danger requirement of 28 U.S.C. § 1915(g) nor the requirement to proceed on an Eighth Amendment claim that plaintiff suffered from a serious medical need. I directed plaintiff to submit an amended complaint more fully describing the seriousness of his medical condition. Now plaintiff has responded to the February 14, 2014 order by filing an amended complaint, a motion to supplement the amended complaint and motions for injunctive relief regarding interference with his legal mail.

After considering all of his submissions, I conclude that plaintiff has not adequately address my concern that his allegations do not meet either the imminent danger standard of section 1915(g) or the substantive elements of an Eighth Amendment claim. Nothing in plaintiff's amended complaint or proposed supplement to his complaint suggests that he is suffering from anything other than a small bleeding hemorrhoid. In his supplement, he states that he became sick after eating food containing a "dead mashed fly inside." Beside the fact that plaintiff almost certainly cannot bring a claim about his food in the current lawsuit because it is totally unrelated to the medical claim concerning his hemorrhoid, Fed. R. Civ. P. 20, this claim would not meet the imminent danger standard or Eighth Amendment standard in its own right.

Moreover, to the extent that plaintiff has submitted motions for preliminary injunctive relief concerning his legal mail, I have no reason to believe that he has been barred

from filing anything in this case. Rather, plaintiff has been able to file multiple documents. The problem for plaintiff is that those documents do not show either that he is in imminent danger of serious physical harm or that he has a serious medical need necessary to prevail on an Eighth Amendment claim. Accordingly, I will dismiss the case in its entirety for plaintiff's failure to state a claim upon which relief may be granted and deny plaintiff's motions for injunctive relief and to supplement his complaint as futile.

ORDER

IT IS ORDERED that

1. Plaintiff Dwayne Almond is DENIED leave to proceed on his Eighth Amendment claim and this case is DISMISSED for plaintiff's failure to state a claim upon which relief may be granted.
2. Plaintiff's motions for injunctive relief, dkt. ##9, 10, and motion to supplement his amended complaint, dkt. #11, are DENIED as futile.
3. The clerk of court is directed to close this case.

Entered this 22nd day of April, 2014.

BY THE COURT:

/s/

BARBARA B. CRABB
District Judge