

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

JAMES EDWARD SHERROD,)
)
Plaintiff,)
)
v.)
)
GARY E. LACEY, et al.,)
)
Defendants.)

4:14CV3003

**MEMORANDUM
AND ORDER**

This matter is before the court on its own motion. On January 24, 2014, the court granted Plaintiff’s Motion for Leave to Proceed In Forma Pauperis (“IFP”). (Filing No. [6](#).) However, upon further review, it appears that Plaintiff is not entitled to proceed IFP in this matter without first showing a danger of imminent harm. As set forth in the Prison Litigation Reform Act (“PLRA”), a prisoner cannot:

[B]ring a civil action . . . or proceeding [in forma pauperis] if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action . . . in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.

[28 U.S.C. §1915\(g\)](#).

This court’s records reflect that Plaintiff must be barred from proceeding IFP by [28 U.S.C. § 1915\(g\)](#). Plaintiff has, on at least three prior occasions while incarcerated, brought cases that were dismissed on the grounds that they were frivolous or failed to state a claim upon which relief may be granted. *See Sherrod v. State of Nebraska, et al.*, No. 4:02CV3129 (D. Neb. March 17, 2003), Filing No. 50 (dismissing amended complaint for failure to state a claim upon which relief may be granted); *Sherrod v. Kenney, et al.*, No. 4:00CV3322 (D. Neb. March 26, 2001),

Filing No. 9 (dismissing complaint as frivolous); *Sherrod v. Hopkins, et al.*, No. 4:92CV3178 (D. Neb. Aug. 10, 1992), Filing No. 16 (dismissing complaint as frivolous).

Accordingly, Plaintiff has 30 days from the date of this Memorandum and Order to show cause why this case should not be dismissed pursuant to the provisions of [28 U.S.C. 1915\(g\)](#), or pay the full \$400.00 filing and administrative fees. In the absence of good cause shown, or the payment of the necessary fees, this action will be dismissed.

IT IS THEREFORE ORDERED that:

1. The court's previous Memorandum and Order, granting Plaintiff's Motion for Leave to Proceed In Forma Pauperis (filing no. [6](#)), is stricken. Plaintiff's Motion for Leave to Proceed In Forma Pauperis (filing no. [2](#)) remains pending.

2. Plaintiff has until March 3, 2014, to either show cause why he is entitled to proceed IFP pursuant to [28 U.S.C. §1915\(g\)](#) or pay the full \$400.00 filing and administrative fees. In the absence of either action by Plaintiff, this matter will be dismissed without further notice.

3. The Clerk of the court is directed to set a pro se case management deadline in this matter with the following text: March 3, 2014: Deadline for Plaintiff to show cause or pay full filing fee.

DATED this 4th day of February, 2014.

BY THE COURT:

s/ John M. Gerrard
United States District Judge

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