

LAMONT HENDERSON

IN THE COURT OF COMMON PLEAS  
OF LUZERNE COUNTY

Plaintiff

CIVIL ACTION

vs.

WILLIAM MIDLICK, CFSI and  
CHARLES MCKEOWN, H.E.

Defendant

NO. 9967 OF 2011

2012 FEB 23 PM 2:54

FILED  
PROTODIOTARY  
LUZERNE COUNTY

ORDER

AND NOW, this <sup>33<sup>rd</sup></sup> day of February, 2012, upon consideration of the Defendant's Motion to Revoke IFP and Dismiss the Complaint Pursuant to Section 6602(f) of the Prison Litigation Reform Act, it is hereby **ORDERED AND DIRECTED** as follows:

1. The Plaintiff, Lamont Henderson, a prisoner, has been granted permission to proceed In Forma Pauperis (IFP) in the above-captioned matter, which is a Complaint filed by the Plaintiff involving, at least in part, alleged violations of state constitutional rights.

2. The Plaintiff filed a separate action, Henderson v. Bogusky, in this Court at 2947-C-2004. The IFP in that action was dismissed by December 10, 2004 Order of the Honorable Hugh F. Mundy, on a motion similar to the one currently filed by Defendant.

3. In the 2004 Order, this Court found that the Plaintiff had filed at least three prior actions, all of which the court found involved prison conditions litigation, said actions being:

Henderson v. Zappala, No. 02-6549 (E.D. Pa. Sept. 2002);

Henderson v. Seracino, No. 03-0150 ( M.D. July 22, 2003);

Henderson v. Seracino, No. 03-3640 (3d Cir. March 30, 2004).

4. "Prison conditions litigation" is defined as a civil proceeding arising in whole, or in part, under Federal or State law with respect to the conditions of confinement or the

effects of actions by a government party on the life of an individual confined in prison;  
42 Pa.C.S.A. §6601.

5. Even if a filing fee has been paid, a court shall dismiss prison conditions litigation if the court determines. . .the prison conditions litigation is “frivolous or malicious or fails to state a claim upon which relief may be granted...” 42 Pa.C.A. §6602(e) (2).

6. 42 Pa.C.A. §6602(f) states that a prisoner is an “abusive litigator” if he or she has previously filed prison conditions litigation and: “three or more of these prior civil actions have been dismissed” pursuant to sub-section (e) (2).

7. The Plaintiff, being a prisoner, and having filed at least three prior actions involving prison conditions, all of which were found by this Court’s 2004 Order to have been dismissed as being frivolous or for failure to state a cause of action, the Motion of the Defendants, William Midlick and Charles McKeown, to revoke Plaintiff’s IFP Status is **GRANTED**.

8. The Plaintiff, Lamont Henderson, is directed to pay the full amount of any filing fees and costs incurred in the above-captioned matter within sixty (60) days of the date of this Order or have the above-captioned matter dismissed.

9. All proceedings are stayed, pending either the payment of filing fees and costs, or the dismissal of this action; and

10. The Prothonotary is directed to serve notice of the entry of this Order pursuant to Pa.R.C.P. 236.

BY THE COURT:



JOSEPH F. SKLAROSKY JR.,

J.