

RONALD D. WEAVER,

Plaintiff,

v.

P.J. ROHRER, MICHAEL J. TURNER,  
WILLIAM MISHLER, JOHN DOE ONE,  
JOHN DOE TWO, EUGENE  
SANTORELLA, ELIZABETH  
NIGHTINGALE, SHARON M. BURKS,  
and JERRY L. SPANGLER,

Defendants.

) IN THE COURT OF COMMON PLEAS  
) OF SOMERSET COUNTY,  
) PENNSYLVANIA

) NO. 530 CIVIL 2007

For Plaintiff: Pro Se Inmate at SCI Laurel Highlands

For Defendants: Not applicable

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MEMORANDUM

On May 31, 2007, Plaintiff Ronald Weaver submitted a request to proceed in forma pauperis in a civil action against the numerous above-named Defendants. For the reasons stated below, Plaintiff's request is denied.

Pursuant to Pa.R.Civ.P. 240(b), a person "who is without financial resources to pay the costs of litigation is entitled to proceed in forma pauperis." This general rule, however, is subject to certain limitations and exceptions. Among those limitations is subpart (j) which provides:

If, simultaneous with the commencement of an action or proceeding or the taking of an appeal, a party has filed a petition for leave to proceed in forma pauperis, the court prior to acting upon the petition may dismiss the action, proceeding or appeal if the allegation of poverty is untrue or if it is satisfied that the action, proceeding or appeal is frivolous.

Note: A frivolous action or proceeding has been defined as one that "lacks an arguable basis either in law or in fact." *Neitzke v. Williams*, 490 U.S. 319, 109 S.Ct. 1827, 104 L.Ed.2d 338 (1990).

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SUPERINTENDENT'S ASST.

Pa.R.Civ.P. 240(j) (emphasis added); see also Pa.R.Civ.P. 240, note 4 (frivolous actions). Simply, Rule 240 allows us to dismiss the case if we find the action to be frivolous. Notably, we may only dismiss an action under this Rule if we have not yet granted a plaintiff in forma pauperis status. In other words, once we grant a plaintiff in forma pauperis status, we are not permitted to dismiss his or her action under the Rule 240 test of frivolity. *Grosso v. Love*, 667 A.2d 43, 44 (Pa. Commw. 1995). Therefore, we take this opportunity to review the merits of Plaintiff's Complaint now, before granting him in forma pauperis status.

After reviewing the entire eighteen-page complaint in the present case, we find that the pleading fails to assert any arguable cause of action. Essentially, Plaintiff alleges that certain prison employees conspired to assign Plaintiff to a prison job that he was incapable of performing (Complaint at ¶¶ 18 – 29 and ¶ 63) and conspired to destroy Plaintiff's personal property (Complaint at ¶¶ 13 – 17; ¶¶ 30 – 38; and ¶ 63). Moreover, Plaintiff avers that Defendants perpetuated a complete breakdown in the inmate grievance system such that the procedure is now useless (Complaint at ¶¶ 39 – 52 and ¶¶ 65 – 67).

Plaintiff's first point of contention arises from his work assignment to the dietary department. Simply, Plaintiff has no legal right to choose his work assignment. As Pennsylvania Department of Corrections Administrative Procedure 816-1-1 makes clear: "A medically cleared inmate must accept any work/school assignment regardless of the amount of compensation offered in return. No inmate has a right to be assigned or continue in any specific work/school assignment." Accordingly, we find Plaintiff's first argument meritless.

Second, Plaintiff asserts that the prison employees conspired to destroy his personal property. According to Plaintiff, he was given permission to store six boxes of documents in the prison's property room. A few days later these items were removed by one of the putative defendants. When Plaintiff inspected his belongings, several items were reportedly missing.

First, we note that Plaintiff is only permitted four—not six—boxes of documents (see DOC Procedure 815-VI-I). Second, Plaintiff admits to signing a form stating that all of his belongings were accounted for when he retrieved his boxes. Given the foregoing, we fail to see how Plaintiff can make out a cognizable claim under these facts.

Third, we turn to Plaintiff's argument that the grievance system is really a sham operation. Plaintiff offers no facts in support of this contention other than that his various grievances were denied. Merely being unhappy with the result of a grievance procedure does not give rise to a civil cause of action.

Finally, we note that the overwhelming tone of Plaintiff's Complaint is one of general outrage and ranting (Complaint at ¶¶ 53 – 62). For example, Plaintiff boldly avers in Paragraph 53 that Defendants "exterminate" prisoners who utilize the grievance system and then record the prisoner's death as one from natural causes. Plaintiff continues in Paragraph 58 by discussing the female employee's inferiority complex with the male inmate. Clearly, Plaintiff's final statements do not give rise to any arguable cause of action.

Having found that Plaintiff has failed to set forth any arguable basis for a cause of action, we simultaneously dismiss his complaint and deny his request to proceed in forma pauperis

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)  
)  
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NO. \_\_\_\_\_ CIVIL 2007

ORDER

AND NOW, this 11<sup>th</sup> day of June, 2007, in accordance with the foregoing Memorandum, Plaintiff Ronald Weaver's request to proceed in forma pauperis is DENIED under Pa.R.Civ.P. 240(j) regarding the rule for frivolous actions. It is further ordered that the above-captioned civil action be DISMISSED WITHOUT PREJUDICE.

BY THE COURT:

  
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David C. Klementik, J.