

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

JAMES E. WILLIAMS : CIVIL ACTION
 :
 v. :
 :
 WARDEN RONALD NARDOLILLO, et al. : NO. 04-4730

M E M O R A N D U M

NEWCOMER, J. NOVEMBER , 2004

Plaintiff, a prisoner, has filed a pro se 42 U.S.C. § 1983 civil rights lawsuit against the Warden, a supervisor and a member of the medical staff at the George W. Hill Correctional Facility. He is alleging that he was fired from his prison job because he broke his toe and couldn't wear the boots that were required for the job. He is seeking money damages.

With his complaint, plaintiff filed a request for leave to proceed in forma pauperis, which is hereby granted. However, plaintiff's complaint will be dismissed as legally frivolous, pursuant to 28 U.S.C. § 1915(e)(2)(B)(i), for the reasons which follow.

I. DISCUSSION

In order to bring suit under 42 U.S.C. § 1983, plaintiff must allege that a person acting under color of state law deprived him of his constitutional rights. West v. Atkins, 487 U.S. 42 (1988). There are no allegations in the complaint that would allow this Court to find that plaintiff's constitutional rights have been violated.

There is no constitutional right to prison employment. James v. Quinlan, 866 F.2d 627, 629-30 (3d Cir. 1989). The placement in or removal from a job is within the discretion of prison officials.

Gardner v. Johnson, 429 F. Supp. 432, 434-35 (E.D. Mich. 1977);
Bryan v. Werner, 516 F.2d 233, 240 (3d Cir. 1975).

II. CONCLUSION

Plaintiff has advanced an "indisputably meritless legal theory." Neitzke v. Williams, 490 U.S. 319, 327 (1989). Accordingly, dismissal of this complaint pursuant to 28 U.S.C. § 1915(e)(2)(B)(i) is appropriate. An order dismissing this complaint follows.

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O R D E R

AND NOW, this day of November, 2004,

IT IS ORDERED that:

1. Leave to proceed in forma pauperis is GRANTED.
2. This action is **DISMISSED AS FRIVOLOUS** pursuant to 28 U.S.C. § 1915(e)(2)(B)(i), for the reasons stated in the accompanying memorandum filed this day.

AND IT IS SO ORDERED.

BY THE COURT:

S/ CLARENCE C. NEWCOMER, J.

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