

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

RHODRICK C. HARRISON : CIVIL ACTION
v. :
LEHIGH COUNTY PRISON, et al. : NO. 07-0856

M E M O R A N D U M

BUCKWALTER, J. JUNE , 2007

Plaintiff has filed a pro se 42 U.S.C. § 1983 civil rights lawsuit against the Lehigh County prison and the Prime Care Medical Unit. He alleges that he fell down the stairs at the prison because he had been given damaged clothing. He is seeking money damages, payment of all of his medical bills and release for proper medical care.

With this action, plaintiff submitted a motion to proceed in forma pauperis. As it appears he is unable to pay the cost of commencing this action, leave to proceed in forma pauperis is granted. However, for the reasons which follow, this action will be dismissed as legally frivolous pursuant to 28 U.S.C. § 1915(e)(2)(B)(i).

I. DISCUSSION

In order to bring suit under § 1983, plaintiff must allege that a person acting under color of state law deprived him of his constitutional rights. See Kost v. Kozakiewicz, 1 F.3d 176, 184 (3d Cir. 1993) (listing the elements of a § 1983 claim). There are no allegations in the complaint that would allow this Court to find that the defendants have violated plaintiff's constitutional rights. Negligent conduct which causes unintended

injury to an inmate does not amount to a constitutional violation. See Davidson v. Cannon, 474 U.S. 344, 347 (1986); Daniels v. Williams, 474 U.S. 327, 328 (1986). Accordingly, the complaint will be dismissed as frivolous.

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 June, 2007
in accordance with the accompanying Memorandum, IT IS HEREBY
ORDERED that:

1. Plaintiff's Motion for Leave to Proceed In Forma Pauperis is **GRANTED**; and

2. This action is **DISMISSED** as legally frivolous pursuant to 28 U.S.C. § 1915 (e)(2)(B)(i).

BY THE COURT:

RONALD L. BUCKWALTER, J.