

STATE OF MICHIGAN
COURT OF CLAIMS

RICKY DARNELL SCOTT #19204,

Plaintiff,

v

ECF PROPERTY ROOM STAFF PERSONNEL,
ECF WARDEN BURGESS, ECF GRIEVANCE
COORDINATOR T. BASSETT, and ECF RUM
MONTAGUE,

Defendants.

OPINION AND ORDER

Case No. 23-000109-MP

Hon. Christopher P. Yates

OPINION AND ORDER GRANTING SUMMARY DISPOSITION TO DEFENDANTS

Plaintiff, a state prisoner, filed suit demanding damages for his personal property that was allegedly taken, discarded, or destroyed when he was transferred to the Oaks Correctional Facility. Defendants have moved for summary disposition on the ground that plaintiff failed to comply with the disclosure provision set forth in MCL 600.5507(2) of the Michigan Prison Litigation Reform Act (PLRA), MCL 600.5501 *et seq.*, which requires a prisoner, upon commencing a civil action, to disclose the number of civil actions and appeals the prisoner has previously initiated. Plaintiff has responded and stated in his response that he “has not filed any claims in this court, and had no litigation history in which to inform the court.”

The PLRA applies to a “civil action concerning prison conditions[.]” MCL 600.5501, and a “[c]ivil action concerning prison conditions’ means any civil proceeding seeking damages or equitable relief arising with respect to any conditions of confinement or the effects of an act or

omission of government officials, employees, or agents in the performance of their duties”
MCL 600.5531(a).

According to MCL 600.5507, which is contained in the PLRA:

(2) A prisoner who brings a civil action or appeals a judgment concerning prison conditions shall, upon commencement of the action or initiation of the appeal, disclose the number of civil actions and appeals that the prisoner has previously initiated.

(3) The court shall dismiss a civil action or appeal at any time, regardless of any filing fee that may have been paid, if the court finds any of the following:

* * *

(b) The prisoner fails to comply with the disclosure requirements of subsection (2).

Failure to disclose the number of previous civil actions or appeals at the commencement of the action mandates dismissal. *Komejan v Dep’t of Corrections*, 270 Mich App 398, 399; 715 NW2d 375 (2006). Because the statute leaves no room for discretion, a trial court is obligated to dismiss for failure to disclose the number of civil actions and prior appeals, even if that number is zero. *Tomzek v Dep’t of Corrections*, 258 Mich App 222, 225; 672 NW2d 511 (2003). The statute does not afford the court discretion to permit an amendment to the complaint. In *Doe v Dep’t of Corrections*, 312 Mich App 97, 112-114; 878 NW2d 293 (2015), vacated in part on other grounds 499 Mich 886 (2016), the plaintiffs failed to comply with the disclosure requirements set forth in MCL 600.5507(2), but argued that the court should permit them to amend the complaint. The *Doe* majority held that the trial court lacked discretion to permit amendment under MCR 2.118(A). *Id.* at 113-114. Therefore, even if defendant’s statement in his response could be considered a motion to amend the complaint, the Court lacks discretion to permit such an amendment.

Plaintiff does not dispute that he failed to disclose the number of his previous civil actions or appeals in his original complaint. Although plaintiff is a pro se litigant who ordinarily would be entitled to leeway in his pleadings, *Hughes v Rowe*, 449 US 5, 9; 101 S Ct 173; 66 L Ed 2d 163 (1980), the Court of Appeals concluded in *Komejan*, *Tomzek*, and *Doe* that the plain language of MCL 600.5507(2) and (3) requires dismissal for failure to comply with the disclosure requirements in the PLRA. Accordingly, the Court must award summary disposition to defendants under MCR 2.116(C)(7). In light of that decision to award summary disposition to defendants, all the pending motions filed by plaintiff are denied as moot because no further litigation is necessary in this case to reach a final resolution of all claims.

This is a final order that resolves the last pending claim and closes the case.

Date: March 28, 2024



Hon. Christopher P. Yates
Judge, Court of Claims

