

**UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
INDIANA, TERRE HAUTE DIVISION**

Thomas Jerome Howard, Jr. v. Christop Simmerman, et al.

Howard v. Simmerman · No. 2:26-cv-00021-JPH-MKK · Decided May 21, 2026

OPINION

HOWARD

PER CURIAM.

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF INDIANA

TERRE HAUTE DIVISION

THOMAS JEROME HOWARD, JR.,)

) Plaintiff,)) v.) No. 2:26-cv-00021-JPH-MKK) CHRISTOP SIMMERMAN, et al.,))
Defendants.)

**ORDER DISMISSING ACTION AND DIRECTING ENTRY OF FINAL
JUDGMENT**

The Court's screening order at Docket No. 11 dismissed the complaint pursuant to 28 U.S.C. § 1915A. Plaintiff, Thomas Jerome Howard, Jr., was given time in which to show cause why this action should not be dismissed because, for the reasons provided, Mr. Howard's complaint failed to state a claim upon which relief may be granted. Dkt. 11 at 2-5. Mr. Howard has filed a response to the order to show cause. Dkt. 13. In his response, Mr. Howard only states "I believe I've had filed out all my remedies and here are my [exhibits] 1-8." Id. (as written). Mr. Howard attached his tort claim response, inventory sheets, and his grievance responses. Dkt. 13-1. Mr. Howard's response makes clear that he is pursuing his claim that the prospective defendants caused the destruction or loss of his personal property. However, the Court previously informed Mr. Howard that the deprivation or destruction of personal property is not a cognizable 42 U.S.C. § 1983 claim. Because Mr. Howard has an adequate state law remedy, the alleged deprivation of his property was not a constitutional violation. *Glenn v. Vanihel*, No. 2:22-cv-00030-JMS-MG, 2022 WL 3043528, *2 (S.D. Ind. Aug. 2, 2022). Because Mr. Howard has failed to state a viable federal claim, he may not rely on the Court's supplemental jurisdiction to entertain any prospective state-law claims. See 42 U.S.C. § 1367(c)(3); *Hagans v. Lavine*, 415 U.S. 528, 536-37 (1974); *In re African-Am. Slave Descendants Litig.*, 471 F.3d 754, 757-58 (7th Cir. 2006). For the same reasons stated in the Court's screening order, Mr. Howard's allegations fail to state a claim. Dkt. 11. Therefore, this action is dismissed for failure to state a claim upon which relief can be granted. 28 U.S.C. § 1915A; See *Luevano v. Wal-Mart Stores, Inc.*, 722 F.3d 1014, 1022 (7th Cir. 2013); *Jennings v. City of Indianapolis*, 637 F. App'x 954, 954-955 (7th Cir. 2016).

"A plaintiff can plead himself out of court by pleading facts that show that he has no legal claim." Epstein v. Epstein, 843 F.3d 1147, 1150 (7th Cir. 2016) (internal quotation omitted). Also, because this case is being dismissed for failure to state a claim, the plaintiff is warned that it may constitute a "strike" under 28 U.S.C. § 1915(g), which limits a prisoner's ability to proceed in forma pauperis after having three cases or appeals dismissed as frivolous, malicious, or for failure to state a claim upon which relief may be granted. See Hill v. Madison Cty., Ill., 983 F.3d 904, 906 (7th Cir. 2020) ("It makes good sense for a judge who believes a dismissal to come within the scope of § 1915(g) to include notice to that effect," even though later courts must make the conclusive determination of whether each prior dismissal meets the statutory definition). Final judgment shall now issue. SO ORDERED. Date: 5/21/2026 SJamu Patrick Hanlon James Patrick Hanlon United States District Judge Southern District of Indiana Distribution: THOMAS JEROME HOWARD, JR. 136138

WABASH VALLEY - CF

Wabash Valley Correctional Facility Electronic Service Participant — Court Only