

COURT OF CHANCERY
OF THE
STATE OF DELAWARE

ABIGAIL M. LEGROW
MASTER IN CHANCERY

NEW CASTLE COUNTY COURTHOUSE
500 NORTH KING STREET, SUITE 11400
WILMINGTON, DE 19801-3734

Final Report: August 14, 2014
Date Submitted: August 5, 2014

Via U.S. Mail Only

Augustus Hebrew Evans, Jr.
#191247 Unit #19 C-U-6
James T. Vaughn Correctional Center
1181 Paddock Road
Smyrna, DE 19977

Re: *IMO: Augustus Hebrew Evans, Jr.*
Rule 65 Injunction Motion
C.M. No. 05468-N

Dear Mr. Evans:

I received your application to proceed *in forma pauperis* (the “Application”) in order to file a “Rule 65 Injunction Motion” (the “Motion”). I reviewed both the Application and the Motion, along with the accompanying exhibits you provided. Although the Motion nearly is illegible, I have endeavored to read and understand your complaint and the relief you seek. It appears from my review that you are asking this Court to enter an injunction requiring the defendants to facilitate within 15 days a medical examination by a specialist “familiar with the residual effects of the drugs Risperdol¹ [sic] and Napercin² [sic].”

¹ This appears to refer to Risperdal, an antipsychotic typically used to treat schizophrenia.

² This appears to refer to Naprosyn, a brand name for Naproxen, an anti-inflammatory drug.

Because you are a prisoner, your Application is subject to review under 10 *Del. C.* § 8804. The Application lists several other actions you have filed while incarcerated, several of which have been dismissed as frivolous or malicious or because the complaint failed to state a claim. Those actions include: *Evans v. Graves, et al.*, C.A. No. S13C-05-020 JTV (Order dated September 20, 2013), *Evans v. Seaford Police Dept.*, 2012 WL 1191649 (D. Del. April 3, 2012), *Evans v. Wright*, 2008 WL 511904 (D. Del. Feb. 21, 2008), and *Evans v. McMillian*, 2007 WL 4348067 (D. Del. Dec. 5, 2007). Section 8804(f) bars an incarcerated plaintiff from proceeding *in forma pauperis* if he previously filed three or more complaints that were dismissed on the grounds that the pleading was frivolous, malicious, or failed to state a claim under which relief may be granted, unless “the prisoner is under imminent danger of serious physical injury at the time that the complaint is filed.”

Although the Motion alleges you are suffering from headaches and other ailments you believe may be related to medications you previously were prescribed, a fair reading of the Motion does not indicate that you face imminent serious physical injury if you are not examined by a specialist. The exhibits to the Application and Motion indicate that you have been examined by health professionals on several occasions relating to these complaints. Indeed, it is reasonable to conclude that you seek this medical examination or consultation in connection with legal actions you have filed, or intend to file, against the companies that manufactured these drugs.

Because you are statutorily barred from proceeding *in forma pauperis*, I recommend that the Court deny the Application. This is my final report and exceptions may be taken in accordance with Court of Chancery Rule 144.

Very truly yours,

/s/ Abigail M. LeGrow
Master in Chancery