

STATE OF MICHIGAN
COURT OF APPEALS

EDWARD LEE GREEN, JR.,

Plaintiff-Appellant,

v

GAIL SCANLON and PATRICK KAMPF,

Defendants-Appellees.

UNPUBLISHED

March 25, 2014

No. 314030

Muskegon Circuit Court

LC No. 12-048688-CZ

Before: GLEICHER, P.J., and HOEKSTRA and O’CONNELL, JJ.

PER CURIAM.

Plaintiff is incarcerated in the West Shoreline Correctional Facility. He filed a “libel defamation complaint” in the Muskegon circuit court, alleging that two prison employees defamed him by making false accusations regarding his prison job performance. The Muskegon circuit court returned plaintiff’s complaint with an order requiring plaintiff to remit a partial filing fee of \$32.85.

Plaintiff did not pay the filing fee. Instead, he filed a motion for reconsideration. The court returned his motion for failure to pay a \$25 motion fee. The circuit court then entered an order dismissing the case pursuant to MCL 600.5505, which permits dismissal of “civil actions concerning prison conditions” at any time if the court finds the action frivolous or the defendants immune. MCL 600.5505(1), (2)(b) and (2)(c). Plaintiff now challenges the circuit court’s determination that his suit qualifies as an action “concerning prison conditions.” He also raises objections to the procedural and substantive reasons for dismissal invoked by the circuit court. We affirm the circuit court.

The prison litigation reform act (PLRA), MCL 600.5501 *et seq.*, applies to a “civil action concerning prison conditions.” MCL 600.5501. MCL 600.5531(a) provides:

[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, but does not include proceedings challenging the fact or duration of confinement in prison, or parole appeals or major misconduct appeals. . . .

The plain language of MCL 600.5531(a) defines a “civil action concerning prison conditions” to include: (1) “any civil proceeding” where the plaintiff seeks either damages or equitable relief, (2) as a result of “any conditions of confinement or the effects of an act or omission of government officials, employees, or agents in the performance of their duties. . . .” See MCL 600.5531(a).

Plaintiff contends that this is a general civil action and not a prison conditions case. However, his claim arises from alleged acts of government employees in the performance of their duties. Thus, the circuit court properly determined that plaintiff’s libel complaint was a “civil action concerning prison conditions” and that the PLRA applied to plaintiff’s claim.

We next consider plaintiff’s argument that the trial court improperly determined that it was required to dismiss plaintiff’s complaint because plaintiff failed to disclose the number of civil actions he had previously initiated, as required under MCL 600.5507(2). This Court reviews “de novo the interpretation and application of a statute as a question of law.” *Anderson v Myers*, 268 Mich App 713, 714; 709 NW2d 171 (2005).

The PLRA mandates dismissal of a complaint if a prisoner fails to comply with its procedural requirements, including that a prisoner bringing a prison conditions action must disclose the number of civil actions he or she has previously filed. *Tomzek v Dep’t of Corrections*, 258 Mich App 222, 223; 672 NW2d 511 (2003). Even a prisoner’s first suit must be identified as such. *Id.* at 224-225. Plaintiff neglected to supply the statutorily required information. Because MCL 600.5507(3)(b) “explicitly instructs the court to dismiss the action” when “a prisoner fails to disclose the number of previous suits,” *Komejan v Dep’t of Corrections*, 270 Mich App 398, 399-400; 715 NW2d 375 (2006), we find no error in the circuit court’s decision to dismiss plaintiff’s case. We decline to consider plaintiff’s remaining arguments.

We affirm.

/s/ Elizabeth L. Gleicher
/s/ Joel P. Hoekstra
/s/ Peter D. O’Connell