

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION**

DONALD LACY, )  
)  
Plaintiff, )  
)  
vs. ) Case No. 1:13-cv-811-RLY-DML  
)  
STATE OF INDIANA, et al., )  
)  
Defendants. )  
)

**Entry and Order Directing Dismissal of Action**

Plaintiff Donald Lacy, a state prisoner at the New Castle Correctional Facility, alleges in his complaint that subjecting him to the Indiana Sex Offender Monitoring and Management Treatment Program (“SOMM”) has violated his federally secured rights and will continue to do so. Participation in the SOMM program requires an inmate to confess his guilt to certain crimes. Failure to do so can result in the loss of good-time credits. Asserting that this violates his Fifth Amendment right against self-incrimination, Lacy seeks damages, declaratory judgment, and injunctive relief freeing him from participation in the SOMM. His claims are asserted pursuant to 42 U.S.C. ' 1983.


The court previously screened and dismissed Lacy’s complaint pursuant to 28 U.S.C. § 1915A. He was given a period of time in which to show cause why this action should not be dismissed consistent with the court’s screening order. Lacy has responded arguing that his claims are supported by the opinion of the Minnesota Supreme Court in *Johnson v. Fabian*, 735 N.W.2d 295 (Minn. 2007). But several cases from other jurisdictions have held that sex offender treatment programs like the SOMM do not violate the Fifth Amendment privilege against self-incrimination, even though failure to complete the programs results in forfeiture of good-time

credits or the opportunity for early release. *See, e.g., Entzi v. Redmann*, 485 F.3d 998, 1004 (8th Cir. 2007) (“The North Dakota Department of Corrections has the exclusive discretion to determine whether an offender should be credited with a performance-based sentence reduction. The loss of an opportunity for such a discretionary sentence-reduction credit is not among the consequences for noncompliance that go ‘beyond the criminal process and appear, starkly, as government attempts to compel testimony.’” (citations omitted)); *Searcy v. Simmons*, 299 F.3d 1220, 1226 (10th Cir. 2002) (where Kansas regulations merely provide that “an ‘inmate *may* earn good time credits,” holding that “foreclosing Mr. Searcy from the mere *opportunity* to earn good time credits is not a new penalty, but only the withholding of a benefit that the KDOC is under no obligation to give”); *Ainsworth v. Stanley*, 317 F.3d 1, 5 (1st Cir. 2002) (no unconstitutional compulsion where “nonparticipation in [New Hampshire’s sex-offender treatment program] almost always results in an inmate being denied parole”; re-adopting rationale of earlier decision, 244 F.3d 209 (1st Cir. 2001)). Similar reasoning applies here. Because Lacy has no entitlement to good-time credits, the SOMM program does not violate his Fifth Amendment rights by requiring him to admit guilt or lose good-time credits. *See Grennier v. Frank*, 453 F.3d 442, 444-45 (7th Cir. 2006) (because a prisoner has no liberty interest in being released on parole, he has no right to a hearing before being labeled a “sex offender,” a title that affects his eligibility for parole). Lacy has therefore failed to state a claim that would entitle him to relief and this action must be dismissed.

Judgment consistent with this Entry shall now issue.

**IT IS SO ORDERED.**

Date: 09/11/2013



---

RICHARD L. YOUNG, CHIEF JUDGE  
United States District Court  
Southern District of Indiana

Distribution:

Donald Lacy  
184915  
New Castle Correctional Facility  
1000 Van Nuys Road  
New Castle, IN 47362