

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JOHN A. CORRION,

Plaintiff,

v.

Case No. 09-13159
Honorable David M. Lawson

PATRICIA L. CARUSO, NICK LUDWICK,
and JOHN DOE, Corrections Officers,

Defendants.

**OPINION AND ORDER DENYING LEAVE TO PROCEED WITHOUT
PREPAYMENT OF THE FILING FEE AND DISMISSING THE COMPLAINT**

The plaintiff, a state prisoner currently confined at the Michigan Reformatory in Ionia, Michigan, has filed a *pro se* civil rights complaint pursuant to 42 U.S.C. § 1983 and seeks leave to proceed without prepayment of the fees and costs for this action. Having reviewed the plaintiff's history of frivolous lawsuits, the Court concludes that the plaintiff may not proceed without prepayment of the filing fee for this action. Accordingly, leave to proceed without prepayment of fees and costs will be denied, and the complaint will be dismissed without prejudice unless the plaintiff pays the full filing fee for this action within twenty-eight days.

I.

The actions giving rise to the plaintiff's complaint occurred on January 25, 2009, while he was incarcerated at the St. Louis Correctional Facility in St. Louis, Michigan. The plaintiff alleged that, while walking in the prison yard, he was slashed in the face by an unidentified inmate, requiring six internal and twenty external stitches. He claimed that prison officials failed to adequately protect him. The plaintiff has named Michigan Department of Corrections Director

Patricia Caruso, St. Louis Warden Nick Ludwick, and four unidentified St. Louis corrections officers as the defendants in this case. He seeks compensatory and punitive damages for the violation of his Eighth Amendment rights under the United States Constitution.

II.

A preliminary issue is whether the plaintiff may proceed without prepayment of the entire filing fee for this action. The Court's records reveal that the plaintiff has filed more than three prior civil actions which have been dismissed as frivolous or for failure to state a claim upon which relief may be granted. *See Corrion v. Ludwick*, No. 2:09-CV-11531, slip op. (E.D. Mich. July 13, 2009); *Corrion v. Morse, et al.*, No. 2:09-CV-1186, (E.D. Mich. June 30, 2003); *Corrion v. Morse, et al.*, No. 2:09-CV-11404, 2009 WL 1086788, at *3-4 (E.D. Mich. April, 22, 2009). Consequently, under the "three strikes" provision of the Prison Litigation Reform Act of 1995, the plaintiff may not proceed without prepayment of the filing fee and costs for this action unless he is in imminent danger of serious physical injury. *See* 28 U.S.C. § 1915(g). The event giving rise to the plaintiff's complaint—an assault by a fellow inmate several months ago—does not reach this threshold, especially considering that the plaintiff is has since been transferred to another prison facility. Therefore, he has failed to demonstrate that he is "under imminent danger of serious physical injury," *see* 28 U.S.C. § 1915(g), and he may not proceed with this action unless he pays the entire filing fee. *See In re Alea*, 286 F.3d 378, 381 (6th Cir. 2002).

Accordingly, it is **ORDERED** that the plaintiff's application for leave to proceed without prepayment of the fees and costs for this action is **DENIED**.

It is further **ORDERED** that the plaintiff shall tender to the Clerk of the Court the entire filing fee of \$350.00 **on or before September 18, 2009**. If he fails to do so, his complaint will be dismissed.

s/David M. Lawson
DAVID M. LAWSON
United States District Judge

Dated: August 21, 2009

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on August 21, 2009.

s/Lisa M. Ware
LISA M. WARE