

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS

BEAUMONT DIVISION

JEREMY LEE CONLIN §
VS. § CIVIL ACTION NO. 1:09cv1000
EMBARQ PAYPHONE SERVICES, INC., §
ET AL.

MEMORANDUM OPINION

Plaintiff Jeremy Lee Conlin, an inmate confined at the Stiles Unit of the Texas Department of Criminal Justice, Correctional Institutions Division, proceeding *pro se*, brings this action pursuant to 42 U.S.C. § 1983 against Embarq Payphone Services, Inc., Rick Thaler, and Christina Melton Crain.

Discussion

Plaintiff complains that the prison telephone policy requires individuals who wish to receive calls from inmates through the inmate payphone service to register their telephone numbers with prison officials. Plaintiff claims that this constitutes a prior restraint on inmates' rights to free speech.

Plaintiff is requesting permission to proceed *in forma pauperis*.

Analysis

Title 28 U.S.C. § 1915(g) prohibits prisoners from repeatedly filing frivolous or malicious complaints. Section 1915(g) provides as follows:

In no event shall a prisoner bring a civil action or appeal a judgment in a civil action [*in forma pauperis*] . . . if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or

fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.

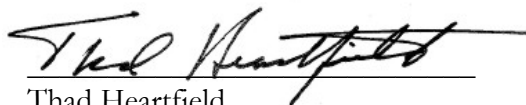
At least three of plaintiff's prior suits or appeals have been dismissed as frivolous or for failure to state a claim.¹ As a result, Section 1915(g) is applicable.

As set forth above, plaintiff has had at least three prior lawsuits or appeals dismissed as frivolous, malicious, and for failure to state a claim upon which relief may be granted. The allegations set forth in plaintiff's complaint do not demonstrate that he was in "imminent danger of serious physical injury." Section 1915(g) therefore bars plaintiff from proceeding with this lawsuit on an *in forma pauperis* basis.

Conclusion

For the reasons set forth above, this action will be dismissed without prejudice pursuant to 28 U.S.C. § 1915(g). An appropriate final judgment shall be entered in accordance with this Memorandum Opinion.

SIGNED this the 17 day of **December, 2009**.



Thad Heartfield
United States District Judge

¹ See *Conlin v. Davis*, No. 4:06cv3305 (S.D. Tex. Oct. 23, 2006) (dismissed as frivolous and for failure to state a claim); *Conlin v. Lange*, No. 4:06cv1817 (S.D. Tex. Nov. 7, 2006) (dismissed as frivolous); and *Conlin v. Quarterman*, No. 1:08cv175 (E.D. Tex. Mar. 6, 2009) (dismissed as frivolous and for failure to state a claim).