

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

ANTHONY LEON SUMMERS §
VS. § CIVIL ACTION NO. 1:11cv156
BRAD LIVINGSTON, ET AL §

MEMORANDUM OPINION

Plaintiff Anthony Leon Summers, an inmate incarcerated at the Stiles Unit of the Texas Department of Criminal Justice, Correctional Institutions Division, proceeding *pro se*, filed what the above-styled civil rights lawsuit. As plaintiff did not include the required filing fee, he appears to be attempting to proceed with this lawsuit on an *in forma pauperis* basis.

Analysis

On April 26, 1996, the president signed into law the Prison Litigation Reform Act. Pub.L. No. 104-134, 110 Stat. 1321 (1996). 28 U.S.C. § 1915(g), which was created by the Act, 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 three or more occasions ... 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.

Prior to the date on which plaintiff filed this complaint, courts had dismissed at least four lawsuits and one appeal filed

by plaintiff as frivolous or for failure to state a claim.¹ As a result, Section 1915(g) is applicable.

The allegations made in the complaint do not demonstrate plaintiff was in "imminent danger of serious physical injury" on the date his complaint was filed. Section 1915(g) therefore bars plaintiff from proceeding with this action on an *in forma pauperis* basis. This case will, accordingly, be dismissed.

Conclusion

For the reasons set forth above, this lawsuit will be dismissed pursuant to 28 U.S.C. § 1915(g). An appropriate final judgment shall be entered.

SIGNED this the **1** day of **June, 2011**.



Thad Heartfield
United States District Judge

¹ *Summers v. Unidentified Party*, No. 1:03cv459 (E.D. Tex. Mar. 8, 2004) (dismissed as frivolous); *Summers v. Gibson*, No. 1:03cv1406 (E.D. Tex. Jan. 12, 2004) (dismissed as frivolous), *appeal dismissed as frivolous*, N. 04-40101 (5th Cir. Aug. 18, 2004); *Summers v. Goodwell*, No. 4:03cv55 (S.D. Tex. Sept. 24, 2003) (dismissed as frivolous and for failure to state a claim); *Summers v. White*, 1:02cv797 (E.D. Tex. Dec. 19, 2002) (dismissed as frivolous).