

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

DANNY LEE DUFFY, SR. §
VS. § CIVIL ACTION NO. 1:12cv36
ROBERT L. BEHRNS, ET AL. §

MEMORANDUM OPINION

Plaintiff Danny Lee Duffy, Sr., an inmate confined at the Stiles Unit of the Texas Department of Criminal Justice, Correctional Institutions Division, proceeding *pro se*, filed this civil rights lawsuit. Plaintiff complains about the medical care he has received. Plaintiff has filed a motion seeking leave to proceed *in forma pauperis* in this action.

Analysis

Title 28 U.S.C. § 1915(g) prohibits prisoners from repeatedly filing frivolous or malicious complaints on an *in forma pauperis* basis. 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 he filed this lawsuit, at least three lawsuits filed by plaintiff were dismissed as frivolous or malicious.¹ As a result, Section 1915(g) is applicable.

¹ *Duffy v. Eisenbach*, No. 6:95cv3 (N.D. Tex. Jan. 26, 1995) (dismissed as frivolous); *Duffy v. Martinez*, No. 6:95cv44 (N.D. Tex. Nov. 6, 1995) (dismissed as malicious); *Duffy v. Freeman*, No. 6:11cv3 (N.D. Tex. Jan. 11, 2011) (dismissed as frivolous).

As set forth above, plaintiff has had at least three prior lawsuits dismissed as frivolous or malicious. The allegations set forth in plaintiff's complaint do not demonstrate that he is in "imminent danger of serious physical injury." Section 1915(g) therefore bars plaintiff from proceeding further with a civil rights lawsuit on an *in forma pauperis* basis.

Conclusion

For the reasons set forth above, this lawsuit will be dismissed. An appropriate Final Judgment shall be entered.

SIGNED this the 18 day of **April, 2012**.

A handwritten signature in black ink, appearing to read "Thad Heartfield", written over a horizontal line.

Thad Heartfield
United States District Judge