

---



---

 UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF TEXAS

 DAVID L. MILLER,  
 TDCJ 1228416,

Plaintiff,

*versus*

DR. SHERI TALLEY, ET AL.,

Defendant.

 §  
 §  
 §  
 §  
 §  
 §  
 §  
 §  
 §

CIVIL ACTION H-10-3341

### Opinion on Dismissal

David L. Miller sues for civil rights violations. He is in a Texas prison. He has not paid the filing fee. He has sued six other times in the federal courts in Texas. The district court dismissed three of these lawsuits as frivolous or for failure to state a claim recognized at law. *See Miller v. Midland Police Department, et al.*, 7:00cv53 (W.D. Tex.); *Miller v. UTMB*, 1:03cv104 (E.D. Tex.); and *Miller v. Chavez*, 7:06cv32 (W.D. Tex.). When Miller sued in these other cases, he was held in prison or jail. The district court dismissed these other cases before Miller filed this case.

A prisoner may not bring a case in federal court as a pauper if, while imprisoned, he brought three actions which the court dismissed as frivolous or for failure to state a claim, unless he is under imminent danger of serious physical injury. 28 U.S.C. § 1915(g). Miller argues he is under imminent danger of serious physical injury based on blood in his urine. (1, p.1). Miller has sued about this medical problem before. *See Miller v. UTMB*, 3:08cv572 (N.D. Tex.). His allegations here do not show that he is under imminent danger of serious physical injury. He may move to reinstate if he pays the filing fee.

This complaint is dismissed. 28 U.S.C. § 1915(g).

Signed October 13, 2010, at Houston, Texas.




---

Lynn N. Hughes  
 United States District Judge