

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
JONESBORO DIVISION**

ROSEMARY BLAKES
ADC #705058

PLAINTIFF

V.

NO: 3:11CV00265 SWW

CRITTENDEN COUNTY
SHERIFF DEPARTMENT *et al.*

DEFENDANTS

ORDER

Plaintiff Rosemary Blakes, an inmate currently incarcerated at the Arkansas Department of Correction's McPherson Unit, filed a *pro se* complaint (docket entry #1), pursuant to 42 U.S.C. § 1983, along with an application for leave to proceed *in forma pauperis* (docket entry #2), on November 18, 2011.

Because Plaintiff's complaint must be dismissed, without prejudice, pursuant to the three-strikes provision of the Prison Litigation Reform Act ("PLRA"), Plaintiff's application for leave to proceed *in forma pauperis* will be denied.

Under the three-strikes provision of the PLRA, a prisoner may not bring a civil action *in forma pauperis* if he 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." 28 U.S.C. § 1915(g). The Eighth Circuit has explicitly upheld the constitutionality of the three-strikes provision. *Higgins v. Carpenter*, 258 F.3d 797 (8th Cir. 2001).

Records in the office of the Clerk of Court for the Eastern District of Arkansas reveal that

Plaintiff has had at least three prior civil actions dismissed for failure to state a claim upon which relief may be granted.¹

The Court additionally finds, based on the allegations contained in Plaintiff's present complaint, that she is not in imminent danger of serious physical injury. Specifically, Plaintiff's claims date from 2007 and 2008, and relate to time she spent in the Crittenden County Detention Center. Defendants are the Crittenden County Sheriff Department, and parole officer Jennifer Miller. Such claims do not describe imminent danger of serious physical injury, particularly because Plaintiff is now incarcerated at the Arkansas Department of Correction.

IT IS THEREFORE ORDERED THAT:

1. Plaintiff's motion for leave to proceed *in forma pauperis* (docket entry #2) is DENIED, and Plaintiff's complaint is DISMISSED WITHOUT PREJUDICE. Should Plaintiff wish to continue this case, she must submit the statutory filing fee of \$350.00 to the Clerk of the Court, noting the above case style number, within thirty (30) days of the entry date of this order, along with a motion to reopen the case. Upon receipt of the motion and full payment, this case will be reopened.

2. The Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an *in forma pauperis* appeal from this order or the judgment entered hereunder, would not be taken in good faith.

DATED this 12th day of December, 2011.

/s/Susan Webber Wright
UNITED STATES DISTRICT JUDGE

¹See *Blakes v. Boyd*, ED/AR No. 1:00CV00007; *Blakes v. Scuddamore et al.*, ED/AR No. 1:00CV00168; *Blakes v. McPherson Unit*, ED/AR No. 1:01CV00109.