

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
LITTLE ROCK DIVISION**

THELMA WILLIAMS, JR
ADC #93197

PLAINTIFF

V.

4:11CV00250-BRW

D.P. MARSHALL, JR.

DEFENDANT

ORDER

Plaintiff, currently incarcerated at the Arkansas Department of Corrections' Varner Super Max Unit, filed a *pro se* complaint (docket entry #1), pursuant to 42 U.S.C. § 1983, on March 17, 2011. Plaintiff did not pay the \$350.00 filing fee, or file an application for leave to proceed *in forma pauperis*.

Because Plaintiff's complaint must be dismissed, without prejudice, pursuant to the three-strikes provision of the Prison Litigation Reform Act ("PLRA"), Plaintiff is not entitled to proceed *in forma pauperis*.

Under the three-strikes provision of the PLRA, the Court must dismiss a prisoner's *in forma pauperis* action at any time, *sua sponte* or upon a motion of a party, if it determines that 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."¹ The Eighth Circuit has explicitly upheld the constitutionality of the three-strikes provision.²

¹28 U.S.C. § 1915(g).

²*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.³ Plaintiff's three-strike status has been previously recognized.⁴

The Court additionally finds, based on the allegations contained in Plaintiff's present complaint, that he is not in imminent danger of serious physical injury. Specifically, Plaintiff is attempting to bring suit against a United States District Judge for rulings he made in one of Plaintiff's other cases. Clearly, the facts alleged do not describe imminent danger of serious physical injury.

IT IS THEREFORE ORDERED THAT:

1. Plaintiff's complaint is DISMISSED WITHOUT PREJUDICE. Should Plaintiff wish to continue this case, he 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 additionally certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an *in forma pauperis* appeal from this order or any judgment entered hereunder, would not be taken in good faith.

IT IS SO ORDERED this 30th day of March, 2011.

/s/Billy Roy Wilson
UNITED STATES DISTRICT JUDGE

³See *Williams v. Gibson et al.*, ED/AR No. 5:07CV00178 (filed July 13, 2007); *Williams v. Bennett et al.*, ED/AR No. 5:07CV00179 (filed July 13, 2007); *Williams v. Smallwood et al.*, 5:07CV00181 (filed July 13, 2007).

⁴See *Williams v. Hardin*, ED/AR No. 2:11CV21; *Williams v. Johnson*, ED/AR No. 4:10CV141.