

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

RICKY ASHLEY
#10110-12

PLAINTIFF

V.

NO: 4:12CV00467 JMM/HDY

SUSAN WEBBER WRIGHT *et al.*

DEFENDANTS

ORDER

Plaintiff Ricky Ashley, currently held at the Pulaski County Detention Facility, filed a *pro se* complaint (docket entry #1), pursuant to 42 U.S.C. § 1983, which included a request for leave to proceed *in forma pauperis*, on July 30, 2012.

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)

Plaintiff's three strike status has recently been recognized in this district. *See Ashley v. Young*, ED/AR No. 4:12CV379. Additionally, the United States Court of Appeals for the Eighth

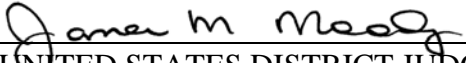
Circuit has determined that, under the provisions of the PLRA, Plaintiff may not proceed without paying the filing fee.¹ The Court additionally finds, based on the allegations contained in Plaintiff's present complaint, that he is not in imminent danger of serious physical injury. Specifically, Plaintiff makes broad and unsupported claims against judges of this Court, and complains generally about the conditions of his cell. Such claims do not describe imminent danger of serious physical injury.

IT IS THEREFORE ORDERED THAT:

1. Plaintiff's request for leave to proceed *in forma pauperis* (docket entry #1) is DENIED, and 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.

DATED this 3rd day of August, 2012.


UNITED STATES DISTRICT JUDGE

¹See *Ashley v. Peninger, et al.*, ED/AR No. 5:94CV00521, docket entry #90.