

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

KENNY TRAVIS, JR.
ADC #119406

PLAINTIFF

v.

Case No: 4:24-CV-00924-JM

CHRISTOPHER R. WARTHEN, et al.

DEFENDANTS

ORDER

Plaintiff Travis Kenny, Jr., an inmate at the Maximum Security Unit of the Arkansas Division of Correction, filed a *pro se* complaint pursuant to 42 U.S.C. § 1983. (Doc. 2). Mr. Travis's complaint must be dismissed, without prejudice, pursuant to the three-strikes provision of the Prison Litigation Reform Act ("PLRA").

Under the three-strikes provision of the PLRA, a prisoner's *in forma pauperis* action must be dismissed, *sua sponte* or upon a motion of a party, if 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." 28 U.S.C. § 1915(g). The Eighth Circuit has upheld the constitutionality of the three-strikes provision. *Higgins v. Carpenter*, 258 F.3d 797, 801 (8th Cir. 2001).

Records in the office of the Clerk of Court for the Eastern District of Arkansas reveal that Mr. Travis has had three prior civil actions dismissed for failure to state a claim upon which relief may be granted. See *Travis v. Osceola Police Dept., et al.*, 3:02-CV-00005-BRW (E.D. Ark.); *Travis v. Russell, et al.*, 3:06-CV-00009-BRW (E.D. Ark.); and *Travis v. Russell, et al.*, 3:06-CV-00177-BRW (E.D. Ark.). Mr. Travis nonetheless may proceed *in forma pauperis* if he establishes

that he is in imminent danger of serious physical injury. *See* 28 U.S.C. § 1915(g); *Ashley v. Dilworth*, 147 F.3d 715, 717 (8th Cir. 1998).


Mr. Travis sues alleging that a state *error coram nobis* proceeding was wrongly dismissed by the Arkansas Supreme Court. (Doc. 2). Nothing in Mr. Travis's complaint indicates that he faces an imminent danger; therefore, that exception does not apply. *Dilworth*, 147 F.3d at 717.

IT IS THEREFORE ORDERED THAT:

1. Mr. Travis's complaint is DISMISSED WITHOUT PREJUDICE. Should he wish to continue this case, Mr. Travis must submit the statutory filing and administrative fees of \$405 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. It is CERTIFIED 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 28th day of October, 2024.


UNITED STATES DISTRICT JUDGE