

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
PINE BLUFF DIVISION

KENNETH RAY BENTON PITTS,  
ADC #85938

PLAINTIFF

v.

5:06CV00259SWW/HLJ

WARDEN LAY, et al.

DEFENDANTS

MEMORANDUM AND ORDER

Plaintiff, a state inmate proceeding pro se, seeks relief in a civil rights action pursuant to 42 U.S.C. § 1983, and has requested leave to proceed in forma pauperis pursuant to 28 U.S.C. § 1915 (DE #1). Although plaintiff has submitted a declaration that makes the showing required by § 1915(a), his request to proceed in forma pauperis will be denied. 28 U.S.C. § 1915(a).

The Court is required to screen complaints seeking relief against a governmental entity or officer or employee of a governmental entity. 28 U.S.C. § 1915(a). Additionally, the Prison Litigation Reform Act (PLRA), 28 U.S.C. § 1915(g), provides that "[i]n no event shall a prisoner bring a civil action or appeal a judgment in a civil action or proceeding under this section if the prisoner has, on three (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."

The Court notes that plaintiff has had several complaints dismissed for failure to state a claim.<sup>1</sup> In addition, the Court finds that plaintiff Pitts has not alleged any facts to indicate that he is under imminent danger of serious physical injury.

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<sup>1</sup> See 5:06cv01305, 5:99cv00071, and 5:99cv00178.

THEREFORE, plaintiff's request to proceed in forma pauperis (DE#1) is denied. Should plaintiff wish to continue this case, he shall submit the statutory filing fee of \$350 to the Clerk, noting the above case style and number within ten (10) days of the date of this Order, along with a motion to reopen the case. Upon receipt of the motion and full payment, the case will be reopened. The case is therefore dismissed without prejudice.

An appropriate Judgment shall accompany this Memorandum and Order

IT IS SO ORDERED this 24<sup>th</sup> day of October, 2006.

/s/Susan Webber Wright  
UNITED STATES DISTRICT JUDGE