

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

THELMA WILLIAMS, JR.,
ADC # 93197

PLAINTIFF

v.

Case No. 5:10-cv-228-DPM-HDY

SMITH, HARRIS, and
WASHINGTON

DEFENDANTS

ORDER

Thelma Williams, currently held at the Varner Super Max Unit of the Arkansas Department of Correction, filed a *pro se* complaint in early August. *Document No. 1.* Williams did not pay the \$350.00 filing fee, or file an application for leave 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 determined 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." 28 U.S.C.A. § 1915(g) (West 2006). 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 the Court for the Eastern District of Arkansas reveal that Williams has had at least three prior civil actions dismissed for failure to state a claim upon which relief may be granted. *Williams v. Gibson*, 5:07-cv-178-SWW, Document No. 10 (E.D. Ark. 13 August 2007); *Williams v. Bennett*, 5:07-cv-179-JMM, Document No. 11 (E.D. Ark. 17 August 2007); *Williams v. Smallwood*, 5:07-cv-181-JMM, Document No. 37 (E.D. Ark. 13 September 2007).

The Court also finds, based on the allegations of Williams's present complaint, that he is not in imminent danger of serious physical injury. Specifically, Williams alleges that his legal mail and law library access is being interfered with, and that he has been verbally abused. The facts alleged do not describe imminent danger of serious physical injury.

Williams's complaint is dismissed without prejudice. Should he wish to continue this case, he must submit the statutory filing fee of \$350.00 to the Clerk of the Court, noting the case number, within thirty 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. An *in forma pauperis* appeal from this order and the accompanying Judgment would not be taken in good faith. 28 U.S.C.A. § 1915(a)(3) (West 2006).

So Ordered.

D.P. Marshall Jr.
D.P. Marshall Jr.
United States District Judge

4 Jan. 2011