

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

JERRY J. ELLIS, ADC # 78658

PLAINTIFF

v.

5:16CV00010-JM-JJV

LARRY MAY, Ex Deputy- Director,
Arkansas Department of Correction; *et al.*

DEFENDANTS

ORDER

Jerry J. Ellis (“Plaintiff”) filed this action pro se and pursuant to section 1983. (Doc. No. 2.) He also filed an Application to Proceed Without Prepayment of Fees and Affidavit (“Application”) (Doc. No. 1). Plaintiff is a three-striker¹ within the meaning of 28 U.S.C. § 1915(g)² of the Prison Litigation Reform Act (“PLRA”). *Martin v. Shelton*, 319 F.3d 1048, 1050 (8th Cir. 2003). Here, however, Plaintiff has alleged he is in imminent danger of serious physical injury. (Doc. No. 2 at 9-10.) Specifically, he alleges various correctional officers at the Varner Unit have accused him of being a ‘snitch’ in retaliation for his use of the grievance system, thereby encouraging other inmates to harm him. (*Id.*) I decline to grant his Application immediately, however. His Complaint as a whole is deficient and he will be afforded and opportunity to amend. Plaintiff’s allegations all relate

¹*See Ellis v. Nolan, et al.*, No. 5:92CV00500 (August 12, 1992); *Ellis v. Norris, et al.*, No. 5:96CV00197 (April 10, 1996); *Ellis, et al. v. Norris, et al.*, 5:96CV00219 (April 12, 1996).

²In relevant part it provides that:

In 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 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).

to staff designating him a ‘snitch’, but they do not arise from the same transaction or occurrence. His claims range in date from January 2012 to January 2015 and many are not dated at all. (*Id.* at 11-18.) Additionally, much of his Complaint is illegible or nearly illegible and is comprised of little more than the names of inmates who have been told he is a ‘snitch.’ Finally, it is unclear how each of the seventeen Defendants he has named was personally involved in the violation of his rights.

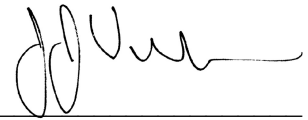
Plaintiff, if he chooses, may submit to the Court, within thirty (30) days of the entry date of this Order, a superseding Amended Complaint which contains all of his claims against all defendants he is suing in a single document. He is cautioned that an Amended Complaint renders his original Complaint without legal effect. Only claims properly set out in the Amended Complaint will be allowed to proceed. Therefore, Plaintiff’s Amended Complaint should 1) name all the parties he believes deprived him of his constitutional rights and whom he wishes to sue in this action; 2) provide specific facts against each named defendant in a simple, concise, and direct manner, including dates, times, and places, if applicable; 3) indicate whether he is suing each defendant in his/her individual or official capacity, or in both capacities; 4) how Plaintiff was harmed; and 5) state whether he was incarcerated at the time as a pretrial detainee. Any Amended Complaint should limit itself to a **short and plain statement** of his claims. Fed. R. Civ. P. 8 (a)(2).

IT IS, THEREFORE, ORDERED THAT:

1. The Clerk shall mail the 42 U.S.C. § 1983 complaint form to Plaintiff with this Order. If Plaintiff wishes to amend his Complaint, he may complete the new complaint form in its entirety in accordance with this Order, mark it as “Amended Complaint,” and file within thirty (30) days of the date of this Order.

2. Plaintiff’s Complaint, as it now stands, is deficient and some or all of his claims may be dismissed after thirty (30) days of the date of this Order.

DATED this 13th day of January, 2016.

A handwritten signature in black ink, appearing to read 'Joe J. Volpe', written above a horizontal line.

JOE J. VOLPE
UNITED STATES MAGISTRATE JUDGE