

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

PHILLIP DEWAYNE STEWART, ADC #151956

PLAINTIFF

v.

No. 5:17CV00021 JLH/JTR

GLADYS EVANS, Law Library Supervisor,  
Varner Unit, ADC, et al.

DEFENDANTS

**OPINION AND ORDER**

Phillip Dewayne Stewart is a prisoner in the Varner Unit of the Arkansas Department of Correction. He has filed a *pro se* section 1983 complaint and an application to proceed *in forma pauperis*. Documents #1 and #2.

The Prison Litigation Reform Act provides that a prisoner cannot proceed *in forma pauperis* “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).

Prior to filing this lawsuit on January 23, 2017, Stewart filed at least four cases that were dismissed for failing to state a claim upon which relief may be granted. *See Stewart v. Evans*, No. 5:16CV00081 (E.D. Ark. dismissed March 24, 2016); *Stewart v. Hobbs*, No. 6:15CV6023 (W.D. Ark. dismissed Jan. 26, 2016); *Stewart v. Murphy*, No. 6:14CV6077 (W.D. Ark. dismissed March 15, 2015); *Stewart v. Hobbs*, No. 5:13CV00381 (E.D. Ark. dismissed Jan. 31, 2014).

Nevertheless, Stewart may proceed *in forma pauperis* if he falls under the “imminent danger” exception to the three strikes rule. *See* 28 U.S.C. § 1915(g). In the complaint, Stewart alleges that defendants violated his constitutional rights in connection with a major disciplinary he received on

June 16, 2016. Document #2. Nothing in Stewart's allegations suggests that he is currently in imminent danger of serious physical injury.

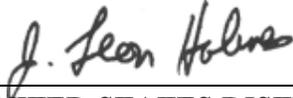
IT IS THEREFORE ORDERED THAT:

1. Stewart's application to proceed *in forma pauperis* is denied, and this case is dismissed without prejudice. Document #1.

2. If Stewart wishes to continue this case, he must, **within thirty days of the entry of this Opinion and Order**: (a) pay the \$400 filing fee in full, noting the above case style and number; and (b) file a motion to reopen the case.

3. The Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an *in forma pauperis* appeal would not be taken in good faith.

IT IS SO ORDERED this 22nd day of February, 2017.

  
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UNITED STATES DISTRICT JUDGE