

FILED
 UNITED STATES DISTRICT COURT
 DENVER, COLORADO

FEB 20 2010

GREGORY C. LANGHAM
 CLERK

IN THE UNITED STATES DISTRICT COURT
 FOR THE DISTRICT OF COLORADO

Civil Action No. '10 - CV - 00376 *Bnb*
 (The above civil action number must appear on all future papers
 sent to the court in this action. Failure to include this number
 may result in a delay in the consideration of your claims.)

JERRY LEWIS DEDRICK,

Plaintiff,

v.

UNITED STATES DEPARTMENT OF JUSTICE AGENCY, et al.,

Defendant.

**ORDER DIRECTING CLERK TO COMMENCE CIVIL ACTION AND
 DIRECTING PLAINTIFF TO SHOW CAUSE**

On February 12, 2010, Plaintiff, Jerry Lewis Dedrick, submitted to the Court a *pro se* Prisoner Complaint pursuant to *Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics*, 403 U.S. 388 (1971), and a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915. The Clerk of the Court will be directed to commence a civil action, and Mr. Dedrick will be instructed to show cause why the Complaint and action should not be denied pursuant to § 1915(g).

Mr. Dedrick is a prisoner. He seeks leave to proceed without prepayment of fees or security therefor pursuant to 28 U.S.C. § 1915. In relevant part, § 1915 provides:

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).

Mr. Dedrick, on three or more prior occasions, has brought an action in a federal court that was dismissed on the grounds that it was frivolous. **See *Dedrick v. T.C. Outlaw***, 07-cv-00177-TH-KFG (E.D. Tex. July 12, 2007). In response to the question on Page Two of the Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915, as to whether Mr. Dedrick is in imminent danger of serious physical injury, Mr. Dedrick answers the following: (1) he is being denied his rights to serious medical care; (2) he is being poisoned because his food and beverages contain sugar substitutes; and (3) he is subject to an unlawful imprisonment. Upon review of the Complaint, the Court finds Mr. Dedrick asserts three claims challenging his conviction and incarceration. Mr. Dedrick fails to assert imminent danger of serious physical injury in this action. The Court also notes that Mr. Dedrick filed a previous action, ***Dedrick v. Wilner, et al.***, No. 09-cv-02662-CMA (D. Colo. filed Nov. 13, 2009), that is pending in this Court, in which he raises serious medical claims.

Mr. Dedrick has initiated three or more actions that count as strikes pursuant to 28 U.S.C. § 1915(g), and he has not asserted sufficient fact allegations in this action that he is under imminent danger of serious physical injury. Pursuant to § 1915(g) he is precluded from bringing the instant action ***in forma pauperis***. Mr. Dedrick will be ordered to show cause why he should not be denied leave to proceed pursuant to 28 U.S.C. § 1915(g). Accordingly, it is

ORDERED that the Clerk of the Court shall commence a civil action in this matter. It is

FURTHER ORDERED that Mr. Dedrick show cause in writing **within thirty days from the date of this Order** why he should not be denied leave to proceed pursuant to 28 U.S.C. § 1915 because: (1) he has, on three or more prior occasions, while incarcerated or detained in any facility, brought an action in a court of the United States that was dismissed on the grounds that it is frivolous; and (2) he fails to establish that he is under imminent danger of serious physical injury.

DATED at Denver, Colorado, this 18th day of February, 2010.

BY THE COURT:



BOYD N. BOLAND
United States Magistrate Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO


CERTIFICATE OF MAILING

Civil Action No. '10 - CV - 00376

Jerry Lewis Dedrick
Reg No. 27140-180
USP – Florence
PO Box 7000
Florence, CO 81226

I hereby certify that I have mailed a copy of the **ORDER** to the above-named individuals on 2/20/10

GREGORY C. LANGHAM, CLERK

By:  _____
Deputy Clerk