

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

LARRY COLEMAN,

Plaintiff,

vs.

Case No. 2:06-cv-324-FtM-99SPC

FNU LEAHEY,

Defendant.

ORDER OF DISMISSAL WITHOUT PREJUDICE

Plaintiff, an inmate of the Florida penal system proceeding pro se, initiated this action by filing a civil rights complaint form (Doc. #1) on June 30, 2006. It appears that Plaintiff wants to proceed in forma pauperis, although the Affidavit of Indigency was not complete (See Doc. #2). On April 26, 1996, the President signed into law the Prison Litigation Reform Act (hereinafter PLRA) which amended 28 U.S.C. § 1915 by adding the following subsection:

(g) In no event shall a prisoner bring a civil action or appeal a judgement 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 was frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent damnger of serious physical injury.

Section 1915(g), known as the "three strikes provision," requires this Court to consider prisoner actions dismissed before, as well as after, the enactment of the PLRA. Rivera v. Allin, 144 F.3d 719.730 (11th Cir.) cert. dismissed, 524 U.S. 978 (1998). The Court takes judicial notice of filings brought by Plaintiff in a

Court of the United States that were dismissed on the grounds that they were frivolous, malicious, or failed to state a claim upon which relief may be granted: (1) 2:06-cv-308; (2) 3:04-cv-31; (3) 3:03-cv-297; (4) 1:01-cv-324; (5) 1:01-cv-666; (6) 1:02-cv-23077.

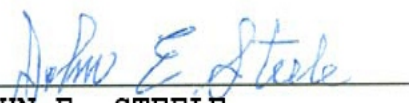
Because Plaintiff has had three or more prior dismissals and is not under imminent danger of serious physical injury, his application to proceed in forma pauperis will be **denied** and this action will be dismissed without prejudice. Plaintiff may initiate a new civil rights action by filing a new civil rights complaint form and paying the full \$350.00 filing fee.

ACCORDINGLY, it is hereby

ORDERED:

1. Plaintiff's Motion to proceed in forma pauperis (Doc. #2) is **DENIED**.
2. This case is hereby **DISMISSED** without prejudice.
3. The Clerk of Court shall: (1) enter judgement dismissing this case without prejudice; (2) terminate any pending motions; and (3) close this file.

DONE AND ORDERED in Fort Myers, Florida, on this 6th day of July, 2006.



JOHN E. STEELE
United States District Judge

SA: alj
Copies: All Parties of Record