

FILED

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

2006 MAR -9 1 A 11:44

CLERK, US DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE, FLORIDA

COREY JAVON FIELDS,

Plaintiff,

v.

Case No. 3:06-cv-213-J-20TEM

CAPT. W. C. F. MUSE, et al.,

Defendants.

ORDER OF DISMISSAL WITHOUT PREJUDICE

Plaintiff, an inmate of the Florida penal system proceeding pro se and in forma pauperis, initiated this action by filing a "Federal Tort Complaint" (Doc. #1) (hereinafter Complaint) on March 6, 2006. 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 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).

The Court takes judicial notice of the following cases filed by Plaintiff in federal court: (1) Case No. 5:00cv97/SPM/MD (N.D. Fla.) (dismissed for failure to state a claim upon which relief may

be granted); (2) Case No. 3:03-cv-932-J-25MCR (M.D. Fla.) (dismissed for Plaintiff's abuse of the judicial process¹); and, (3) Case No. 3:04-cv-572-J-99MCR (M.D. Fla.) (dismissed as frivolous). Because Plaintiff has had three qualifying 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 \$250.00 filing fee.

Therefore, it is now

ORDERED AND ADJUDGED:

1. Plaintiff's application to proceed in forma pauperis (Doc. #2) is **DENIED**.
2. This case is hereby **DISMISSED** without prejudice.
3. The Clerk of the Court shall enter judgment dismissing this case without prejudice.
4. The Clerk of the Court shall close this case.

DONE AND ORDERED at Jacksonville, Florida, this 9th day of March, 2006.


UNITED STATES DISTRICT JUDGE

ps 3/9
c:
Corey Javon Fields

¹ In Rivera v. Allin, 144 F.3d 719, 731 (11th Cir. 1998), the court found that "dismissal for abuse of the judicial process is precisely the type of strike that Congress envisioned when drafting section 1915(g)."