

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

MICHAEL HAYNES,

Plaintiff,

v.

Case No. 3:07-cv-577-J-12TEM

LT. SWAIN,

Defendant.

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 civil rights complaint on June 25, 2007. He has named one defendant, Lt. Swain.

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) (1998).

Section 1915(g) requires this Court to consider prisoner actions dismissed before, as well as after, the enactment of the PLRA. 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) 3:06-cv-407-J-32TEM; (2) 3:06-cv-737-J-33MMH; and, (3) 3:07-cv-254-J-32TEM. Other qualifying dismissals are: 3:07-cv-274-J-25TEM; 3:07-cv-292-J-25MCR; 3:07-cv-300-J-25HTS; 3:07-cv-301-J-32TEM; 3:07-cv-302-J-32MCR; 3:07-cv-303-J-25TEM; 3:07-cv-304-J-33HTS; 3:07-cv-305-J-25MCR; and, 3:07-cv-306-J-32MCR.

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.

Therefore, it is now

ORDERED AND ADJUDGED:

1. Plaintiff is not entitled to proceed in forma pauperis.
2. This case is hereby **DISMISSED** without prejudice.

3. The Clerk of the Court shall enter judgment accordingly and close this case.

DONE AND ORDERED at Jacksonville, Florida, this 27TH day of June, 2007.

Howell W. Milton
UNITED STATES DISTRICT JUDGE

sa 6/26
c:
Michael Haynes