

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

MICHAEL HAYNES,

Plaintiff,

v.

Case No. 3:07-cv-650-J-12MCR

OFFICER THOMSON, et al.,

Defendants.

ORDER OF DISMISSAL WITHOUT PREJUDICE

Plaintiff, an inmate of the Florida penal system proceeding *pro se*, initiated this action by filing a document, entitled "Jurisdiction and Venue" (Doc. #1) (hereinafter Complaint). While Plaintiff's Complaint is not a model of clarity, it appears that Plaintiff's allegations center upon Defendant Thomson's slamming Plaintiff's food tray lid down, causing Plaintiff's ear drums to hurt. Further, Plaintiff claims that Officer Thomson made a "malicious statement" to Plaintiff. Complaint at 3. Specifically, he states that Officer Thomson told Plaintiff: "you are lucky that you are eating this morning." *Id.* at 4. Plaintiff concludes that Officer Thomson's actions keep the tension built up within the prison. *Id.*

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).

This Court takes judicial notice of filings previously brought by Plaintiff Haynes in this Court 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
3:07-cv-306-J-32MCR

Because Plaintiff has had three or more prior qualifying dismissals and is not under imminent danger of serious physical injury, 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 now

ORDERED AND ADJUDGED:

1. This case is hereby **DISMISSED** without prejudice.
2. The Clerk of the Court shall enter judgment accordingly.
3. The Clerk of the Court shall close this case.

DONE AND ORDERED at Jacksonville, Florida, this 19TH day of July, 2007.

Howell W. Melton
UNITED STATES DISTRICT JUDGE

sc 7/17
c:
Michael Haynes