

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

ANTHONY L. COOPER,

Plaintiff,

v.

CASE NO. 6:06-cv-647-Orl-19DAB

PRISON SECURITY, et al.,

Defendants.

ORDER OF DISMISSAL WITHOUT PREJUDICE

On May 5, 2006, Plaintiff filed a civil rights complaint (Doc. No. 1) in the Northern District of Florida. The case was subsequently transferred to this Court. *See* Doc. No. 3, filed May 15, 2006. Although Plaintiff has not filed a motion to proceed in forma pauperis, he did not pay the filing fee at the time the complaint was filed and no fee has since been paid.

Section 1915(g) of Title 28 limits a prisoner's ability to bring a civil action in forma pauperis under certain circumstances:

(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). Thus, if a prisoner has had three or more cases dismissed for one of the recited reasons, he cannot proceed in forma pauperis and must pay the filing fee in full at

the time the lawsuit is initiated. *Dupree v. Palmer*, 284 F.3d 1234, 1236 (11th Cir. 2002). Furthermore, "§ 1915(g)'s language makes it clear that the three strikes rule applies to claims dismissed prior to [its April 26, 1996] effective date." *Medberry v. Butler*, 185 F.3d 1189, 1192 (11th Cir. 1999).

The Court takes judicial notice of filings previously brought by Plaintiff that were dismissed on the grounds that they were frivolous, malicious, or failed to state a claim upon which relief may be granted: (1) 3:00-cv-135RV (by the United States District Court for the Northern District of Florida as malicious); (2) 3:04-cv-1133-J-16MCR (by the Jacksonville Division of this Court as frivolous); and (3) 3:04-cv-1215-J-20TEM (by the Jacksonville Division of this Court as frivolous). Based upon these three prior dismissals and Plaintiff's failure to allege that he is under imminent danger of serious physical injury, he is not permitted to proceed in forma pauperis, 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 filing fee.

Accordingly, it is now **ORDERED AND ADJUDGED**:

1. This case is hereby **DISMISSED** without prejudice.
2. The Clerk of the Court is directed to close this case.

DONE AND ORDERED at Orlando, Florida this 17th day of May, 2006.



PATRICIA C. FAWSETT, CHIEF JUDGE
UNITED STATES DISTRICT COURT

Copies to:
sa 5/17
Anthony L. Cooper