

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

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CLERK, U.S. DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE, FLORIDA

ARTHUR GEORGE TYSON,

Plaintiff,

v.

Case No. 3:00-cv-38-J-20C

MR. C. COBB, etc.;
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 civil rights complaint pursuant to 42 U.S.C. § 1983 on January 10, 2000. On the civil rights complaint form, Section IV.B. states the following: "Have you initiated other lawsuits in federal court dealing with the same or similar facts involved in this action or otherwise relating to your imprisonment or conditions thereof?" There are parenthetical areas to mark either yes or no. Plaintiff marked yes on his complaint, but failed to list all of his cases and failed to fully comply with the requirements of Section IV.C. The Court takes judicial notice of Plaintiff's previous filings in this Court:

6:92-cv-459-Orl-19
6:99-cv-1614-Orl-19
3:94-cv-325-J-20A
3:98-cv-1260-J-20B
3:99-cv-719-J-20B
3:99-cv-780-J-21C
5:94-cv-150-Oc-10B

With regard to the above-listed cases, Plaintiff failed to completely provide the information requested on the form, specifically set forth in Section IV.C. (1)-(8). The sophistication of Plaintiff's substantive arguments and his knowledge of the procedural rules convinces this Court that Plaintiff understands the requirements of fully informing the Court regarding previous filings, the facts and claims of the previous lawsuits, and the specific reasons for dismissal. See Section IV.C. (1)-(8).

This Court has the authority to control and manage matters such as this pending before it. This Court firmly believes that Plaintiff must conform to acceptable standards in approaching this Court. This Court will not tolerate incomplete responses and/or statements in any pleading or motion filed for consideration by the Court. If the Court cannot rely on the statements and/or responses made, it threatens the quality of justice. Here, Plaintiff has incompletely responded to Question C. in Section IV., entitled "Previous Lawsuits."

The President of the United States, on April 26, 1996, signed into law several amendments significantly affecting prison litigation. These amendments are entitled the Prison Litigation Reform Act of 1995. Specifically, prisoners proceeding in forma

pauperis are prohibited from bringing a civil action or appeal if the prisoner has, on three or more prior occasions, while incarcerated, brought an action or appeal in a federal court that was dismissed on the grounds that it was frivolous, malicious, or failed to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury. See Prison Litigation Reform Act of 1995, Section 804; 28 U.S.C. § 1915(g); Rivera v. Allin, 144 F.3d 719 (11th Cir. 1998), petition for cert. filed, (U.S. Sept. 21, 1998) (No. 98-6127). For these reasons, it is imperative that Plaintiff comply with the instructions of this Court.

Additionally, if Plaintiff chooses to refile, he should review his claims to insure compliance with the requirements of 42 U.S.C. § 1983 and to allege facts showing how each defendant violated his federal constitutional rights. In any 42 U.S.C. § 1983¹ cause of action, the initial inquiry must focus on whether the two essential elements to a section 1983 action are present.

A successful section 1983 action requires a showing that the conduct complained of (1) was committed by a person acting under color of state law and (2) deprived the complainant of rights, privileges, or immunities secured by the Constitution or laws of the United States.

¹ Section 1983 provides in relevant part that "[e]very person who, under color of any statute, ordinance, regulation, custom, or usage . . . subjects, or causes to be subjected, any citizen of the United States . . . to the deprivation of any rights . . . secured by the Constitution and laws, shall be liable to the party injured in an action at law . . . [or] suit in equity." 42 U.S.C. § 1983.

Harvey v. Harvey, 949 F.2d 1127, 1130 (11th Cir. 1992); Hale v. Tallapoosa County, 50 F.3d 1579 (11th Cir. 1995). In addition, for liability under 42 U.S.C. § 1983, Plaintiff must allege an affirmative causal connection between the Defendant's conduct and the constitutional deprivation. Swint v. City of Wadley, Alabama, 51 F.3d 988 (11th Cir. 1995); Tittle v. Jefferson County Commission, 10 F.3d 1535, 1541 n.1 (11th Cir. 1994). Further, the allegations in the complaint must be detailed enough to notify the Defendant of the claims.

Further, in refileing, he must file an Affidavit of Indigency that is fully completed with submission of a computer printout that reflects the transactions made in his account for the six months preceding the filing of the complaint. Or, if Plaintiff is not proceeding in forma pauperis, he should submit the \$150.00 filing fee.

Finally, if Plaintiff refiles, he must set forth only related claims in one civil rights complaint. If there are unrelated claims, he should file a separate civil rights complaint form for each unrelated claim. This will assist the court in an efficient and expeditious resolution of his cases. The Clerk of the Court will be ordered to send civil rights complaint forms to Plaintiff.

Thus, for these reasons, this Court is of the opinion that this case should be dismissed without prejudice.


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 send two (2) civil rights complaint forms and two (2) Affidavit of Indigency forms to Plaintiff.

DONE AND ORDERED at Jacksonville, Florida, this 12~~th~~ day of January, 2000.


UNITED STATES DISTRICT JUDGE

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c:
Arthur George Tyson