

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

PRESTON SCHOFIELD,

Plaintiff,

v.

Case No. 8:14-cv-928-T-30TGW

JUDGE JAMES DEKLEVA, et al.,

Defendants.

ORDER

Schofield, a Florida state pre-trial detainee at Orient Road Jail, Tampa, Florida, proceeding *pro se* and *in forma pauperis*,¹ initiated this action by filing a civil rights complaint on April 18, 2014 (Dkt. 1). 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.

The court judicially notices some of Schofield's prior actions that were dismissed as frivolous, malicious, or for failure to state a claim upon which relief may be granted: (1) 6:13-cv-1253-Orl-37KRS (complaint dismissed for failure to state a claim upon which relief can be granted);

¹The Court construes Plaintiff's failure to pay the filing fee as a request to proceed *in forma pauperis*.

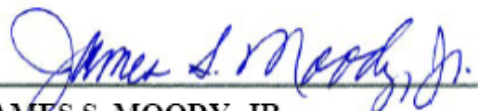
(2) 6:13-cv-1769-Orl-22JBS (complaint dismissed for failure to state a claim upon which relief can be granted); (3) 6:00-cv-1238-Orl-22B (complaint dismissed as frivolous).

Schofield is not entitled to proceed *in forma pauperis* because he has had at least three prior civil actions dismissed as frivolous, malicious, or for failure to state a claim upon which relief may be granted, and he has not alleged that he is under imminent danger of serious physical injury. Schofield may initiate a new civil rights action by filing a new civil rights complaint and paying the full \$400.00 filing fee.

Accordingly, the Court **ORDERS** that:

1. The complaint (Dkt. 1) is **DISMISSED without prejudice** to the filing of a new complaint, in a new case, with a new case number, upon payment of the \$400.00 filing fee.
2. The **Clerk** shall terminate all pending motions, and close this case.

DONE and **ORDERED** in Tampa, Florida on April 23, 2014.



JAMES S. MOODY, JR.
UNITED STATES DISTRICT JUDGE

SA:sfc
Copy to: Plaintiff *pro se*