

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA
PANAMA CITY DIVISION

JOHN ROBERT DEMOS, JR,

Plaintiff,

v.

CASE NO. 5:10-cv-00068-RS-AK

THE UNITED STATES OF AMERICA,

Defendant.

_____ /

ORDER

Plaintiff, an inmate presently incarcerated in the State of Washington, filed an “admiralty” complaint which alleges that he has been kidnapped and held by pirates (Doc. 1). He also seeks to proceed *in forma pauperis*. (Doc. 2).

The Prison Litigation Reform Act of 1995 (PLRA), which was enacted on April 26, 1996, provides that a prisoner may not bring a civil action *in forma pauperis* under 28 U.S.C. § 1915:

if the prisoner has, on 3 or more 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).

Plaintiff has had more than three prior prisoner actions dismissed on the grounds that they were frivolous, malicious, or failed to state a claim. Plaintiff has also been advised that this Court considers him a “three striker,” and that he must allege imminent danger or pay the full filing fee. See Doc. 3 in Case No. 4:08cv233-SPM/WCS; Doc. 3 in Case No. 4:00cv370. Most recently, Plaintiff was denied leave to proceed, and his cause dismissed on April 15, 2010, in

Case No. 1:10cv50-MP/AK. The present complaint appears to be the same complaint as the pleading filed in Case No. 1:10cv50.

The instant complaint is not filed on the proper forms and is frivolous on its face. There are no allegations that would bring Plaintiff within the "imminent danger" exception.

Because Plaintiff has had at least three prior dismissals and is not under imminent danger of serious physical injury, Plaintiff's request to proceed *in forma pauperis* must be denied, and this case must be dismissed. The dismissal will be without prejudice to Plaintiff's making the same allegations in a complaint and paying the full \$350.00 filing fee at the time of filing the new case.

IT IS ORDERED:

1. Plaintiff's motion to proceed *in forma pauperis* (Doc. 2) is **DENIED**.
2. The complaint is **DISMISSED without prejudice**.

ORDERED on April 27, 2010.

/S/ Richard Smoak _____
RICHARD SMOAK
UNITED STATES DISTRICT JUDGE