

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION

ALBERT THOMAS,

Plaintiff

VS.

SONNY PERDUE, *et al.*,

Defendants

NO. 5:05-CV-217 (CWH)

PROCEEDINGS UNDER 42 U.S.C. §1983
BEFORE THE U. S. MAGISTRATE JUDGE

ORDER

Plaintiff **ALBERT THOMAS** has filed a motion to proceed *in forma pauperis* on appeal (Tab #49) from the court's order granting defendants' motion for summary judgment, to the extent that plaintiff was not permitted to proceed *in forma pauperis* in this action unless and until authorized by the Eleventh Circuit Court of Appeals (Tab #46).

The Prison Litigation Reform Act provides as follows:

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)

A review of court records reveals that plaintiff has filed numerous civil actions in federal courts in the State of Georgia while incarcerated. At present, at least three of these complaints have been dismissed as frivolous pursuant to 28 U.S.C. § 1915: **Thomas v. State of Georgia**, 1:95-CV-84 (JOF) (N. D. Ga. March 17, 1995); **Thomas v. Williams**, 1:89-CV-1057 (JOF) (N. D. Ga. Nov. 15, 1989); and **Thomas v. U. S. Sprint**, 5:97-CV-243 (HL) (M. D. Ga. June 10, 1997). As plaintiff has had at least three dismissals, he cannot proceed *in forma pauperis* on appeal from the judgment in the instant case without a showing of "imminent danger of serious physical injury." 28 U.S.C. § 1915(g). As stated in this Court's January 24, 2006 Order, plaintiff has not made such a showing.

Accordingly, plaintiff's motion to proceed *in forma pauperis* on appeal is **DENIED**.

SO ORDERED, this 24th day of March, 2006.



A handwritten signature in blue ink that reads "Claude W. Hicks, Jr." The signature is written in a cursive style.

CLAUDE W. HICKS, JR.
UNITED STATES MAGISTRATE JUDGE