

FILED IN CHAMBERS  
 THOMAS W. THRASH JR.  
 U. S. D. C. Atlanta  
 MAY 8 2006  
 LUTHER D. THOMAS, Clerk  
 By: *[Signature]* Deputy Clerk

**IN THE UNITED STATES DISTRICT COURT  
 FOR THE NORTHERN DISTRICT OF GEORGIA  
 ATLANTA DIVISION**

JAMES E. THOMPSON,	:	PRISONER CIVIL RIGHTS
Plaintiff,	:	42 U.S.C. § 1983
	:	
v.	:	
	:	
PHIL WILEY, et al.,	:	CIVIL ACTION NO.
Defendants.	:	1:06-CV-0923-TWT

**ORDER and OPINION**

Plaintiff, James E. Thompson, incarcerated at the Gwinnett County Detention Center in Lawrenceville, Georgia, has submitted this civil rights action without prepayment of the filing fee. (Doc. No. 1.) Plaintiff brings this action against Phil Wiley, Assistant District Attorney; Tom Ford, defense attorney; and Elizabeth Donegan, psychologist, and complains that he has been the subject of a conspiracy to unjustly institutionalize and prosecute him. (Id. ¶ IV.) Plaintiff seeks injunctive relief and damages. (Id. ¶ V.)

Section § 1915(g) of Title 28 does not allow a prisoner to bring an in forma pauperis civil action in federal court “if the prisoner has, on 3 or more prior occasions, while incarcerated . . . , 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

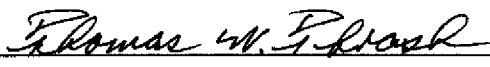
serious physical injury.” When § 1915(g) does not allow a prisoner to proceed in forma pauperis, the complaint should be dismissed without prejudice, and, a prisoner wishing to pursue his or her claims must refile the action with full payment of the filing fee. See Dupree v. Palmer, 284 F.3d 1234, 1236 (11th Cir. 2002).

Plaintiff, while incarcerated, has filed at least three civil actions that have been dismissed as frivolous, malicious, or for failure to state a claim. See Thompson v. Gwinnett County, 1:05-CV-1937-TWT (N.D. Ga. August 24, 2005); Thompson v. Porter, 1:05-CV-1634-WBH (July 7, 2005); Thompson v. State of Georgia, 1:05-CV-0468-WBH (N.D. Ga. Mar. 28, 2005). Plaintiff’s allegations concerning his unjust prosecution do not involve any allegations of an imminent threat of serious injury. Thus, leave to proceed in forma pauperis is not warranted, and this case is due to be dismissed.

**IT IS ORDERED** that Plaintiff is **DENIED** in forma pauperis status.

**IT IS FURTHER ORDERED** that the instant action is hereby **DISMISSED WITHOUT PREJUDICE**.

**IT IS SO ORDERED**, this 8 day of May, 2006.

  
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THOMAS W. THRASH, JR.  
UNITED STATES DISTRICT JUDGE