Terrell v. Schwall et al Doc. 3

FILED IN CHAMBERS
THOMAS W. THRASH JR.
U. S. D. C. Atlanta
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JAMES N. HATTEN, Clerk
By: Deputy Clerk

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

WILLIE JAMES TERRELL, JR.,	:	
Inmate No. 893844,	:	PRISONER CIVIL RIGHTS
Plaintiff,	:	42 U.S.C. § 1983
	:	
v.	:	CIVIL ACTION NO.
	:	1:10-CV-3022-TWT
CRAIG L. SCHWALL; et al.,	:	
Defendants.	:	

WILLIE JAMES TERRELL,	:	
Inmate No. 893844,	:	PRISONER CIVIL RIGHTS
Plaintiff,	:	42 U.S.C. § 1983
	:	
v.	:	CIVIL ACTION NO.
	:	1:10-CV-3023-TWT
CRAIG LAWRENCE SCHWALL, et al.,	:	
Defendants.	:	

WILLIE JAMES TERRELL,	:	PRISONER CIVIL RIGHTS
Inmate No. 893844,	:	42 U.S.C. § 1983
Plaintiff,	:	
	:	CIVIL ACTION NO.
v.	:	1:10-CV-3024-TWT
	:	
CRAIG LAWRENCE SCHWALL, et al.,	:	

ORDER AND OPINION

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Plaintiff seeks leave to file these civil rights actions without paying the $350.00 filing fee. According to Subsection (g) of 28 U.S.C. § 1915, a prisoner is prohibited from bringing a civil action in federal court in forma pauperis "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."

This Court's records indicate that Plaintiff has filed numerous complaints and appeals, the following of which were dismissed prior to service of process as frivolous: Terrell v. Grady Mem'l Hosp., Civil Action No. 1:08-CV-3931-TWT (N.D. Ga.); Terrell v. Fulton County, Civil Action No. 1:09-CV-513-TWT (N.D. Ga.); and Terrell v. Grady Mem'l Hosp., Appeal No. 09-130770D (11th Cir.).

Furthermore, this Court finds no indication that Plaintiff is "under imminent danger of serious physical injury."[1] Accordingly, leave for Plaintiff to

[1] Plaintiff's conclusory allegations of excessive force set forth in Terrell v. Schwall, et al., 1:10-CV-3023-TWT is insufficient. See, e.g., Chavis v. Chappius, __ F.3d __, No. 07-2304-pr, 2010 WL 3221875 at *6 (2d Cir. Aug. 17, 2010) ("A court may find that a complaint does not satisfy the 'imminent danger' exception of the complainant's claims of imminent danger are conclusory or ridiculous.")

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proceed in forma pauperis in all three of the above-referenced actions is hereby **DENIED.**

According to the Eleventh Circuit, "the proper procedure is for the district court to dismiss the complaint without prejudice when it denies the prisoner leave to proceed in forma pauperis pursuant to the three strikes provision of § 1915(g). The prisoner . . . must pay the filing fee at the time he initiates the suit." Dupree v. Palmer, 284 F.3d 1234, 1236 (11th Cir. 2002).

IT IS THEREFORE ORDERED that the instant actions are hereby **DISMISSED WITHOUT PREJUDICE.**

IT IS SO ORDERED this 12 day of Oct., 2010.

Thomas W. Thrash

THOMAS W. THRASH, JR.
UNITED STATES DISTRICT JUDGE

(citations omitted); Fuller v. Wilcox, 288 F. App'x 509, 511 (10th Cir. 2008) (stating that vague and conclusory assertions of harm are insufficient to fall within the "imminent danger" exception to § 1915(g)).

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