

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

ALDEN PAULINE, #A0256259,)	Civ. No. 09-00514 SOM-BMK
)	
Plaintiff,)	
)	
vs.)	ORDER DISMISSING ACTION
)	PURSUANT TO 28 U.S.C.
CLAYTON FRANK, HCF)	§ 1915(g)
ADMINISTRATION, COS HOOMANA,)	
SGT MOCK,)	
)	
Defendants.)	
_____)	

**ORDER DISMISSING ACTION
PURSUANT TO 28 U.S.C. § 1915(g)**

Pro se Plaintiff Alden Pauline, currently incarcerated at the Halawa Correctional Facility ("HCF"), filed this prisoner civil rights complaint pursuant to 42 U.S.C. § 1983. Pauline has neither paid for commencing this suit, nor filed an *in forma pauperis* application. Pauline alleges that Defendants are denying or have denied him a shower and access to his legal paperwork.¹ The Action is DISMISSED pursuant to 28 U.S.C. § 1915(g).

The Prison Litigation Reform Act of 1995 ("PLRA"), provides that a prisoner may not bring a civil action or appeal a civil judgment under 28 U.S.C. § 1915 "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

¹Pauline checks the Complaint's form boxes to indicate "Excessive force by an officer," "Retaliation," and "Threat to safety," but offers no support for these claims.

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).

Pauline has had three or more prisoner actions dismissed as frivolous or for failure to state a claim. See e.g., *Pauline v. Tufono, et al.*, Civ. No. 08-00194 JMS; *Pauline v. Pali Momi Medical Ctr, et al.*, Civ. No. 08-00195 HG; *Pauline v. H.C.F. Administrator, et al.*, Civ. No. 08-00196 SOM; *Pauline v. Tufono, et al.*, Civ. No. 08-00389 DAE; and *Pauline v. Hawaii State Hosp.*, Civ. No. 09-00061.

Pauline does not claim that he was in imminent danger of serious physical injury when he filed this complaint, nor do the facts alleged suggest this. See *Andrews v. Cervantes*, 493 F.3d 1047, 1053 (9th Cir. 2007) (holding that the "imminent danger of serious physical injury" inquiry must be determined as of the date that the prisoner filed the complaint.) Pauline may not bring an action in this court unless he concurrently pays the filing fee. 28 U.S.C. § 1915(g). This action is DISMISSED

without prejudice to refile with submission of the \$350 filing fee.

IT IS SO ORDERED.

DATED: Honolulu, Hawaii, October 28, 2009.



/s/ Susan Oki Mollway
Susan Oki Mollway
Chief United States District Judge

Pauline v. Frank, et al., Civ. No. 09-00514 SOM; ORDER DISMISSING ACTION PURSUANT TO 28 U.S.C. §§ 1915(g); prose attys\Screening\dmp\2009\Pauline 08-514 SOM (1915(g))