

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

JERRY L. SYLVE JR.

CIVIL ACTION

VERSUS

NO. 14-2328

**ORLEANS PARISH DIST. ATTY. LEON
CANNIZZARO, ET AL.**

SECTION "F"(2)

ORDER AND REASONS

Plaintiff, Jerry L. Sylve, an inmate currently incarcerated in the Orleans Parish Prison system, has submitted an application to proceed in forma pauperis in connection with the above-captioned complaint asserting claims under 42 U.S.C. § 1983. Sylve seeks monetary and injunctive relief, including a temporary restraining order, to prevent defendants from prosecuting him because of alleged unlawful search and seizure, unlawful arrest, lack of probable cause and improper bail revocation. Record Doc. No. 5. His pauper application is a non-dispositive pretrial matter which was referred to a United States Magistrate Judge pursuant to Local Rule 72.1(B)(1) and 28 U.S.C. § 636(b).

The Prison Litigation Reform Act ("PLRA"), Pub. L. No. 104-134, 110 Stat. 1321, signed into law on April 26, 1996, now codified at 28 U.S.C. § 1915(g), provides that a prisoner shall not be allowed to bring a civil action pursuant to 28 U.S.C. § 1915 if he has, on three 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 grounds that it was frivolous, malicious, or failed to state a claim for which relief can be granted, unless the prisoner is under imminent danger of serious physical injury.

Sylve has been a frequent filer of civil actions while incarcerated. At least three (3) of his prior civil actions were dismissed as frivolous and/or for failure to state a claim: Jerry Sylve v. Sgt. John Callahan, C. A. No. 97-322 (E.D. La. Jul. 30, 1997) (dismissed as frivolous and for failure to state a claim pursuant to 28 U.S.C. § 1915(e)(2)); Jerry Levon Sylve Jr. v. St. Tammany Parish, C. A. No. 05-116 (E.D. La. Jul. 14, 2005) (dismissed with prejudice as frivolous pursuant to 28 U.S.C. § 1915(e), § 1915A); Jerry Levon Sylve Jr. v. St. Tammany Parish, App. No. 05-30882 (5th Cir. Oct. 19, 2006) (dismissed as frivolous with three strikes warning). He has therefore accumulated three “strikes” under the PLRA.

Under these circumstances, plaintiff may not proceed as a pauper in this action unless he fits within the “imminent danger” exception of Section 1915(g). Plaintiff has not alleged, nor does his complaint conceivably demonstrate, anything establishing that he is in imminent danger of serious physical injury. Consequently, he is not entitled to proceed in forma pauperis pursuant to the provisions of the PLRA. For the foregoing reasons,

IT IS ORDERED that plaintiff’s motion to proceed in forma pauperis (Record Doc. No. 6) is **DENIED** pursuant to 28 U.S.C. § 1915(g).

New Orleans, Louisiana, this 31st day of October, 2014.



JOSEPH C. WILKINSON, JR.
UNITED STATES MAGISTRATE JUDGE