

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

**ABRY L. WHITE**

**VERSUS**

**WARDEN TIMOTHY HOOPER, ASST.  
WARDEN MCGOVERN, DR. FLEMING**

**CIVIL ACTION**

**NO. 17-11092**

**SECTION "B"(4)**

**ORDER AND REASONS**

Plaintiff, Abry L. White, is a prisoner currently incarcerated in the Elayn Hunt Correctional Center ("Hunt") in St. Gabriel, Louisiana. He is a frequent filer of frivolous lawsuits in the federal courts. White filed the instant complaint pursuant to 42 U.S.C. § 1983 against the defendants, Hunt Warden Timothy Hooper, Assistant Warden McGovern, and Dr. Fleming, alleging that he has been mistreated because of and denied adequate care for his mental health issues. White listed two other inmate plaintiffs on his form § 1983 complaint, Willie Foley and Jerico Miller. After repeated attempts to obtain additional information, neither Foley nor Miller had signed the form petition, asserted any claims, paid the filing fee, or submitted a certified application for pauper status. Neither Foley nor Miller has personally provided any indication of their intent to participate in White's lawsuit and are not considered to be plaintiffs in this litigation.

With the complaint, White submitted an application to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915. This is a non-dispositive pretrial matter which was referred to the undersigned magistrate judge pursuant to Local Rule 72.1(B)(1) and 28 U.S.C. § 636(b).

The Prison Litigation Reform Act of 1996 ("PLRA"), Pub. L. No. 104-134, 110 Stat. 1321, now codified at Title 28 U.S.C. § 1915(g), provides that a prisoner shall not be allowed to bring a civil action pursuant to § 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 as frivolous, malicious, or for failure to state a claim for which relief can be granted, unless the prisoner is under imminent danger of serious physical injury. The Court's records establish that at least three of White's prior civil complaints, filed while he was incarcerated, were dismissed as frivolous and/or for failure to state a claim. These include but are not limited to the following: *Abry L. White v. Sheriff James Polhmann*, Civ. Action 17-1876"G"(1) (E.D. La. 2017) (dismissed with prejudice as frivolous and for failure to state a claim); *Abry L. White v. Joshua Gordon, Esq.*, Civ. Action 17-1879"J"(2) (E.D. La. 2017) (dismissed with prejudice as frivolous and for failure to state a claim); *Abry L. White v. Special Agent Andrew Anderson*, Civ. Action 17-11085"S"(5) (E.D. La. 2017) (dismissed with prejudice as frivolous and for failure to state a claim). White therefore has accumulated three "strikes" under the PLRA.

Under these circumstances, White may not proceed as a pauper in this action unless he fits within the "imminent danger" exception of § 1915(g). White has not alleged that he currently is in imminent danger of serious physical injury. There is no assertion that any physical danger is ongoing or existed at the time of filing this complaint; allegations of past harms or dangers do not suffice. *Cloud v. Stotts*, 455 F. App'x 534, 535 (5th Cir. 2011); *Banos v. O'Guinn*, 144 F.3d 883, 884 (5th Cir. 1998); *Comeaux v. Broom*, No. 11-CV-110, 2012 WL 4739576, at \*1, \*3 (N.D. Tex. Sep. 14, 2012). White, therefore, is not entitled to proceed *in forma pauperis* pursuant to § 1915(g). Accordingly,

**IT IS ORDERED** that the Clerk of Court terminate Willie Foley and Jerico Miller as plaintiffs because neither has signed the complaint nor prosecuted this matter and neither is considered to be a plaintiff in this case.

**IT IS FURTHER ORDERED** that the Clerk of Court terminate the deficiency related to Abry L. White's pauper application (Rec. Doc. No. 5) for purposes of entering this Order.

**IT IS FURTHER ORDERED** that Abry L. White's application to proceed *in forma pauperis* (Rec. Doc. No. 5) is **DENIED** pursuant to 28 U.S.C. § 1915(g).

New Orleans, Louisiana this 21st day of December, 2017.

A handwritten signature in black ink, appearing to read "Karen Wells Roby", written in a cursive style. The signature is positioned above a horizontal line.

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**KAREN WELLS ROBY**  
**CHIEF UNITED STATES MAGISTRATE JUDGE**