

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

PRESTON G. DEMOUCHETTE, JR. (#90331)

CIVIL ACTION

VERSUS

SAUNDRA ROSSO, ET AL.

NO. 13-0192-SDD-RLB

RULING

This matter is before the Court on the *Order* to the plaintiff to pay the full amount of the Court's filing fee. (Rec. Doc. No. 5)

On April 25, 2013, pursuant to the "three strikes" provision of 28 U.S.C. § 1915(g), this Court denied the Plaintiff's motion to proceed *in forma pauperis* herein and ordered him to pay, within 21 days, the full amount of the Court's filing fee. (Rec. Doc. No. 5) The Plaintiff was placed on notice that a failure to comply with the Court's *Order* "shall result in the dismissal of the plaintiff's action without further notice from the Court". Id.

In accordance with 28 U.S.C. § 1915, all prisoners granted *in forma pauperis* status are required to pay the full amount of the Court's filing fee. This statute further provides that, with one exception, an inmate may make the required payment over time in incremental installments. However, such incremental payments are not allowed and pauper status shall be denied where the inmate has filed, on at least three prior occasions, actions or appeals which have been dismissed as legally baseless. Specifically:

In no event shall a prisoner bring a civil action or appeal a judgment in a civil action or proceeding under this section 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,

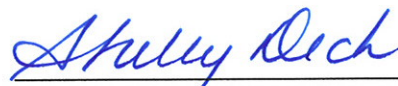
or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.

28 U.S.C. § 1915(g).

In the instant case, the Plaintiff has, on three or more prior occasions while incarcerated, brought actions or appeals which have been dismissed as frivolous or for failure to state a claim upon which relief may be granted.¹ Accordingly, pursuant to Adepegba v. Hammons, 103 F.3d 383 (5th Cir. 1996) and 28 U.S.C. § 1915(g), this Court denied the Plaintiff's motion to proceed *in forma pauperis* and directed him to pay the full amount of the Court's filing fee.² Although the Plaintiff has since filed several motions seeking to overturn the Court's determination in this regard, these motions have been denied, and a review of the record by the Court reflects that the Plaintiff has failed to pay the filing fee as ordered. Accordingly, the Plaintiff's action is subject to dismissal for failure to pay the Court's filing fee.

IT IS ORDERED that the above-captioned proceeding be dismissed, without prejudice, for failure of the Plaintiff to pay the Court's filing fee. Judgment shall be entered accordingly.

Baton Rouge, Louisiana, this 11 day of June, 2013.



**SHELLY D. DICK, DISTRICT JUDGE
MIDDLE DISTRICT OF LOUISIANA**

1. Cases or appeals filed by the plaintiff which have been dismissed by the federal courts as frivolous, malicious, or for failure to state a claim include, but are not limited to, , Preston George Demouchet, Jr. v. Ronald Bonvillian, et al., Civil Action No. 96-7332-FJP-SCR (M.D., La.), Preston George Demouchet, Jr. v. Bernard E. Boudreaux, et al., Civil Action No. 98-1063-RFD-MEM (W.D., La.), and Preston George Demouchette, Jr. v. Richard L. Stalder, et al., Civil Action No. 99-0419-TLM-PAT (W.D. La.).

2. The Court has previously determined that the allegations of the plaintiff's Complaint do not meet the "imminent danger" exception contained within 28 U.S.C. § 1915(g). See rec.doc.no. 5 at note 2.