

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA**

CLARENCE STEWART (#248900)

CIVIL ACTION

VERSUS

17-407-SDD-RLB

JEFFREY F. WILEY, ET AL.

RULING

This matter comes before the Court in connection with the Court's *Order*¹ dated September 1, 2017 denying the Plaintiff authorization to proceed *in forma pauperis* in this case and directing him to pay, within twenty-one (21) days, the full amount of the Court's filing fee.

On September 1, 2017, pursuant to the "three strikes" provision of 28 U.S.C. § 1915(g), the Court determined that the Plaintiff was not authorized to proceed *in forma pauperis* herein and ordered him to pay, within 21 days, the full amount of the Court's filing fee.² 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."³

In accordance with 28 U.S.C. § 1915, a prisoner filing a civil action or appeal in federal court may be granted *in forma pauperis* status but is, nonetheless, required to pay the full amount of the Court's filing fee over time in incremental installments. However,

¹ Rec. Doc. 5.

² See Rec. Doc. 5.

³ *Id.*

such incremental payments are not allowed, and pauper status shall be denied, where the prisoner has filed, on at least three prior occasions while incarcerated, actions or appeals that 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 in the federal courts that have been dismissed as frivolous or for failure to state a claim upon which relief may be granted.⁴ Accordingly, pursuant to 28 U.S.C. § 1915(g), this Court denied the Plaintiff authorization to proceed *in forma pauperis* and directed him to pay the full amount of the Court's filing fee within 21 days. A review of the record by the Court reflects that the Plaintiff has failed to pay the filing fee as ordered on September 1, 2017.

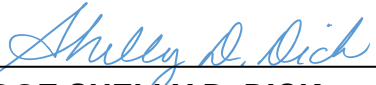
Accordingly,

⁴ Cases filed by the Plaintiff that have been dismissed by the federal courts as frivolous, malicious, or for failure to state a claim include, but are not limited to: *Clarence Tyrone Stewart, Jr. v. Elayn Hunts Correctional Center, et al.*, Civil Action No. 13-0645-JJB-RLB (M.D. La.), *Clarence Tyrone Stewart, Jr. v. Robert Penn*, Civil Action No. 12-0771-JJB-SCR (M.D. La.), *Clarence Stewart, Jr. v. Department of Corrections*, Civil Action No. 96-3431-JVP-SCR (M.D. La.), *Clarence Stewart, Jr. v. Time Picayune Newspaper Co.*, Civil Action No. 95-1756-FJP-SCR (M.D. La.), *Clarence Stewart, Jr. v. Burl Cain, et al.*, Civil Action No. 95-0707-FJP-CN (M.D. La.).

IT IS HEREBY 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.

IT IS FURTHER ORDERED that the Plaintiff's pending *Motion*⁵ is DENIED AS MOOT.

Signed in Baton Rouge, Louisiana on October 12, 2017.



JUDGE SHELLY D. DICK
UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

⁵ Rec. Doc. 2.