

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

HAROLD CAGE,

Plaintiff,

Civil Action No.
09-CV-14834

vs.

HON. BERNARD A. FRIEDMAN

PEOPLE OF THE STATE
OF MICHIGAN, et al.,

Defendants.

ORDER OF DISMISSAL

This matter is presently before the court on plaintiff's application for leave to proceed in forma pauperis [docket entry 2]. Magistrate Judge Binder has issued a report and recommendation in which he recommends that the application be denied and the complaint dismissed pursuant to the "three strikes" provision of the in forma pauperis statute, 28 U.S.C. § 1915(g), because three or more of plaintiff's prior civil actions have been dismissed as frivolous.¹ While plaintiff has filed lengthy objections, he concedes that the three prior actions identified by the magistrate judge² were dismissed as frivolous. Plaintiff also calls to the court's attention another

¹ Section 1915(g) states:

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.

² The three cases identified by the magistrate judge are *Cage v. Kent County Jail*, No 95-179 (W.D. Mich. Sept. 14. 1995); *Cage v. Kent County Corr. Facility*, No. 95-106 (W.D. Mich.

§ 1983 case he brought in this court which was dismissed as frivolous. *See Cage v. Snyder*, No. 08-12379 (E.D. Mich.) (dismissed on 6-27-08 “as frivolous under 28 U.S.C. § 1915(e)(2)(B)”)³. Plaintiff also concedes that he is not in imminent danger of physical injury. Under these circumstances, dismissal of the complaint pursuant to § 1915(g) is required.⁴ Accordingly,

IT IS ORDERED that Magistrate Judge Binder’s Report and Recommendation is hereby accepted and adopted as the findings and conclusions of the court.

IT IS FURTHER ORDERED that plaintiff’s application for leave to proceed in forma pauperis is denied.

Aug. 28, 1995); and *Cage v. Kent County Corr. Facility*, No. 95-433 (W.D. Mich. Aug. 14, 1995).

³ A review of this court’s records reveals that the following additional case, brought by plaintiff, was dismissed for failure to state a claim: *Cage v. Project Rehab Center Board of Directors*, No. 06-10930 (E.D. Mich.) (dismissed on 1-24-07).

⁴ The court notes that at least the following five civil actions brought by plaintiff were dismissed under § 1915(g): *Cage v. St. Mary’s Hospital*, No. 09-645 (W.D. Mich.) (dismissed on 9-4-09 pursuant to § 1915(g)); *Cage v. Michigan Department of Corrections*, 08-913 (W.D. Mich.) (dismissed on 1-14-09 pursuant to § 1915(g)); *Cage v. The Attorney Grievance Commission*, No. 07-13817 (E.D. Mich.) (dismissed on 12-6-07 pursuant to § 1915(g)); *Cage v. Brown*, No. 06-144 (W.D. Mich. (dismissed on 1-10-07 pursuant to § 1915(g)); and *Cage v. Miller*, No. 01-10207 (E.D. Mich.) (dismissed on 9-20-01 pursuant to § 1915(g)).

IT IS FURTHER ORDERED that the complaint in this matter is dismissed without prejudice pursuant to 28 U.S.C. § 1915(g).

IT IS FURTHER ORDERED that plaintiff's motion for a stay of proceedings [docket entry 6] is denied.

Dated: January 22, 2010
Detroit, Michigan

 s/Bernard A. Friedman
BERNARD A. FRIEDMAN
SENIOR UNITED STATES DISTRICT JUDGE