

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JOHN CORRION,

Plaintiff,

Case No. 12-14556
HON. GEORGE CARAM STEEH

v.

KAREN A. CORRION,
MONICA J. COPELAND,

Defendants.

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ORDER DENYING LEAVE TO PROCEED WITHOUT PREPAYMENT OF THE FILING FEE AND COSTS FOR THIS ACTION, DISMISSING COMPLAINT PURSUANT TO 28 U.S.C. § 1915(g), AND DENYING LEAVE TO APPEAL IN FORMA PAUPERIS

Plaintiff, a prisoner at Gus Harrison Correctional Facility, recently filed a *pro se* complaint under 42 U.S.C. § 1983, although the complaint appears to center around allegations against his ex-wife and her attorney relating to a divorce decree. Under 28 U.S.C. § 1915(g), a prisoner may not bring a civil action without prepayment of the filing fee if, on three or more occasions, the prisoner brought a federal action that was dismissed as frivolous, as malicious, or for failure to state a claim on which relief may be granted. As noted by the court in Corrion v. Heyns, et al., No. 12-11096 (E.D. Mich. April 27, 2012), plaintiff's complaints have been dismissed as frivolous or for failure to state a claim more than three times. Indeed, plaintiff has been denied leave to proceed without prepayment of the filing fee at least three times for having had three or more cases dismissed as frivolous, malicious, or for failure to state claim. See Id. There is an exception to the ban under § 1915(g) if "the prisoner is under imminent danger of serious physical injury."

However, the exception “applies only if the complaint alleges facts showing that a danger of serious physical injury exists at the time the complaint is filed.” Pervical v. Gerth, 443 F. App’x. 944, 946 (6th Cir. 2011). First, the complaint does not allege facts showing a danger of serious physical injury. Second, while plaintiff claims he is in real danger of physical injury at the correctional facility in the affidavit attached to the complaint, the incidents cited are not recent. Therefore, plaintiff’s request for leave to proceed without prepayment of fees or costs is DENIED and his complaint is DISMISSED. If plaintiff appeals this decision, he must prepay the appellate filing fee because he is prohibited from proceeding *in forma pauperis* on appeal by § 1915(g).

IT IS SO ORDERED.

Dated: November 8, 2012

s/George Caram Steeh
GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on November 8, 2012, by electronic and/or ordinary mail and also to John Corrion #601943, 2727 E. Beecher Street, Adrian, Michigan 49221.

s/Barbara Radke
Deputy Clerk