

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

EDWARD LEE HILTON,

Plaintiff,

v.

JUDITH A. FULLERTON,

Defendant.

CASE NO. 17-CV-11961

HONORABLE DENISE PAGE HOOD

**ORDER DENYING THE MOTION TO PROCEED
IN FORMA PAUPERIS [2] AND DISMISSING THE COMPLAINT [1]
WITHOUT PREJUDICE PURSUANT TO 28 U.S.C. § 1915(g)**

On June 9, 2017, Plaintiff Edward Lee Hilton filed a *pro se* complaint under 42 U.S.C. § 1983 (Doc. No. 1) and a motion to proceed *in forma pauperis* (Doc. No. 2). At the time, Plaintiff was a pretrial detainee confined at the Genesee County Jail in Flint, Michigan.

Three of Plaintiff's previous complaints have been dismissed as frivolous or for failure to state a claim. *See Hilton v. Gleason*, No. 17-cv-10513 (E.D. Mich. Feb. 28, 2017); *Hilton v. Scott*, No. 16-cv-14384 (E.D. Mich. Dec. 21, 2016); and *Hilton v. Pickell*, No. 16-cv-10771 (E.D. Mich. Mar. 16, 2016). Under the "three strikes" provision of 28 U.S.C. § 1915, a court generally may not grant *in forma pauperis* to a prisoner who "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.”¹ Accordingly, on August 23, 2017, the Court ordered Plaintiff to prepay the filing and administrative fees for this case or to show cause why his complaint should not be dismissed for failure to prepay the fees.

On August 30, 2017, Plaintiff responded to the Court’s order by stating that he does not have the necessary funds to prepay the filing and administrative fees. He also maintains that he does not have “three strikes” because the Court withheld money from his prison account to pay the filing fees in his previous cases, and he believes that he has paid those fees in full. (Doc. No. 6)

Plaintiff did not prepay the filing fees for his previous cases. It appears instead that he paid, or is still paying, the filing fees on an installment basis, and each of the three prior cases listed above was dismissed as frivolous or for failure to state a claim. Plaintiff has “three strikes,” and he is not claiming to be under imminent danger of serious physical injury.

Accordingly,

Plaintiff’s motion to proceed *in forma pauperis* (Doc. No. 2) is DENIED and his complaint (Doc. No. 1) is summarily DISMISSED without prejudice under 28 U.S.C. § 1915(g).

S/Denise Page Hood
Chief Judge, United States District Court

Dated: October 30, 2017

¹ An exception to this rule applies when “the prisoner is under imminent danger of serious physical injury.” 28 U.S.C. § 1915(g).

I hereby certify that a copy of the foregoing document was served upon counsel of record on October 30, 2017, by electronic and/or ordinary mail.

S/LaShawn R. Saulsberry
Case Manager