

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION

5:10cv191

CHARLES MICHAEL CASSELL III,)
)
 Plaintiff,)
)
 v.)
)
 DR. DAWKINS et al.,)
)
 Defendants.)
 _____)

ORDER

THIS MATTER is before the Court on initial review of the pro se Plaintiff’s Complaint and amendments pursuant to 42 U.S.C. § 1983 (Doc. Nos. 1, 4, 5, 6), and Plaintiff’s Motion and Memorandum in Support of a Preliminary Injunction and TRO (Doc. No. 2).

Plaintiff filed the instant Complaint against Defendant Dr. Dawkins, Officer Queen, and the shift sergeants on Red Unit Lock Up. Plaintiff alleges deliberate indifference to his serious medical needs and complains about the conditions of his confinement.


The Prisoner Litigation Reform Act (“PLRA”) makes clear that “[i]n 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 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). This subsection is known as the “three strikes” provision of the PLRA.

Court records indicate that Plaintiff has filed at least one lawsuit in this Court¹, and one in the Southern District of Ohio², both which were dismissed for failure to state a claim for relief. Plaintiff also filed at least one lawsuit in the Eastern District of North Carolina that was dismissed as frivolous.³ Further, Plaintiff has not demonstrated that he is under imminent danger of serious physical injury; therefore, his Complaint must be dismissed without prejudice.

IT IS, THEREFORE, ORDERED that:

- (1) Plaintiff's Complaint is **DISMISSED** pursuant to 28 U.S.C. § 1915(g);
- (2) Plaintiff's Motion for a Preliminary Injunction and TRO is **DENIED** as moot; and
- (3) The Clerk is directed to send a copy of this Order to the pro se Plaintiff.

Signed: December 28, 2010



Robert J. Conrad, Jr.
Chief United States District Judge



¹ See Cassell v. Dawkins et al., 5:10cv69 (W.D.N.C.) (filed May 13, 2010), aff'd 2010 WL 3938272 (4th Cir. Oct. 6, 2010) (unpublished).

² See Cassell v. Grant, et al., 2:04cv348 (S.D. Oh.) (filed May 3, 2004) (State law claim dismissed based on statute of limitations and 42 U.S.C. § 1983 claim dismissed for failure to state a claim for relief).

³ See Cassell v. Norris et al., 5:02ct943 (E.D.N.C.) (filed Dec. 19, 2002), aff'd, 84 F. App'x 291 (4th Cir. Dec. 23, 2003) (unpublished).