

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

David C. Lettieri,)	CASE NO. 4:24 CV 1219
)	
Plaintiff,)	JUDGE DONALD C. NUGENT
)	
v.)	
)	
Randall E. Garver,)	<u>ORDER DENYING MOTION</u>
)	<u>AND DISMISSING CASE</u>
)	
Defendant.)	

Pro se Plaintiff David C. Lettieri, a federal prisoner, has filed a complaint in this action against Randall E. Garver, an individual located in Buffalo, New York. (Doc. No. 1.) Plaintiff did not pay the filing fee, but instead filed a motion to proceed *in forma pauperis*. (Doc. No. 2.) For the reasons that follow, that motion is DENIED, and this action is DISMISSED.

Plaintiff is a serial frivolous filer who has filed multiple frivolous lawsuits in this district and others and has been barred from proceeding *in forma pauperis* under the three strikes rule set out in 28 U.S.C. § 1915(g). *See, e.g., Lettieri v. NEOCC*, No. 4: 24 CV 00032, 2024 WL 107749 (N.D. Ohio Jan. 10, 2024). Nothing in his present complaint suggests he is in “imminent danger of serious physical injury” as would allow him to proceed *in forma pauperis* in this case under the exception set out in the three strikes rule.

Further, as with prior complaints Plaintiff has filed in this district, venue is patently improper here. *See e.g., Lettieri v. Vilardo*, No. 4: 23-cv-1660 (N.D. Ohio Nov. 30, 2023); *Lettieri v. Vilardo*, No. 4: 23-cv-1686 (N.D. Ohio Dec. 11, 2023) (both transferring for lack of venue). Defendant does

not reside in this judicial district; Plaintiff's complaint on its faces does not pertain to any events or omissions occurring in this district (but pertains solely to events occurring in the State of New York); and there is another district where the action may otherwise have been brought, namely, the District Court for the Western District of New York, where the events set forth in the complaint occurred. *See* 28 U.S.C. § 1391(b) (providing that a civil action may be brought only in a judicial district where any defendant resides, if all defendants are residents of the same State in which the district is located; a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred; or a judicial district in which any defendant is subject to personal jurisdiction, if there is no district in which the action might otherwise be brought).

Accordingly, as with multiple prior complaints Plaintiff has filed in federal court, Plaintiff's complaint in this case is frivolous. And he has already been expressly warned that pre-filing restrictions may be imposed on him if he continued to file frivolous actions. *See Lettieri*, 2024 WL 107749 at * 2.

Federal courts have the responsibility to prevent litigants from abusing the judicial process. *See Bush v. OPM-Post Retirement*, No. 1:14-cv-424, 2014 WL 2442163, *2 (S.D. Ohio May 30, 2014) (a *pro se* litigant "has no license to harass others, clog the judicial machinery with meritless litigation, and abuse already overloaded court dockets"). Courts may revoke or deny the privilege of proceeding *in forma pauperis* in federal court when a litigant abuses the privilege by repeatedly filing frivolous, harassing, or duplicative lawsuits. *In re McDonald*, 489 U.S. 180, 184-85 (1989); *Maxberry v. S.E.C.*, 879 F.2d 222, 224 (6th Cir. 1989).

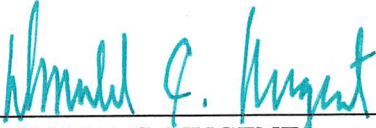
The Court finds that Plaintiff's repeated filing of frivolous complaints in this district amounts to an abuse of the privilege of proceeding *in forma pauperis*. Accordingly, Plaintiff is now

prohibited from filing any actions in this district unless he pays the full filing fee.

Conclusion

Accordingly, Plaintiff's motion to proceed *in forma pauperis* in this case (Doc. No. 2) is DENIED pursuant to 28 U.S.C. § 1915(g), and his complaint is DISMISSED. Further, Plaintiff is now prohibited from filing any actions in this district unless he pays the filing fee. **The Clerk of Court is directed not to accept any new complaint or any other document from Plaintiff for filing unless it is accompanied by the full filing fee.** The Court further certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal from this decision could not be taken in good faith.

IT IS SO ORDERED.



DONALD C. NUGENT
UNITED STATES DISTRICT JUDGE

Dated: 