

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF OKLAHOMA**

SONNY LAUREN HARMON,)
)
 Plaintiff,)
)
 v.)
)
 ROBERT EZELL and)
 McKALEE WEIDMAN,)
)
 Defendants,)

No. CIV 10-451-RAW-SPS

OPINION AND ORDER
DENYING LEAVE TO PROCEED IN FORMA PAUPERIS ON APPEAL

Plaintiff Sonny Lauren Harmon, a prisoner appearing pro se and seeking to commence an appeal to the Tenth Circuit Court of Appeals, has filed a motion for leave to proceed *in forma pauperis* and supporting affidavit in conformance with 28 U.S.C. § 1915(a). A review of his litigation history, however, indicates he has accumulated at least three prior civil rights actions that count as “strikes.”

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.

28 U.S.C. § 1915(g).

In *Harmon v. Williams*, No. CIV-09-1051-C (W.D. Okla. July 23, 2010), plaintiff’s action was dismissed with prejudice, pursuant to Fed. R. Civ. P. 12(b)(6) and 28 U.S.C. § 1915(e)(2)(B)(ii). In *Harmon v. Williams*, No. CIV-02-942-C (W.D. Okla. Jan. 15, 2003),


aff'd, No. 03-6027 (10th Cir. June 19, 2003), the district court dismissed plaintiff's action for failure to state a claim upon which relief may be granted and specifically found that the dismissal counted as a "prior occasion" under 28 U.S.C. § 1915(g). Finally, plaintiff's § 1983 claims were dismissed as barred by the Eleventh Amendment and the statute of limitations, and for failure to serve certain defendants in *Harmon v. Davis*, No. CIV-99-405-C (W.D. Okla. June 26, 2000), *aff'd*, No. 00-6233 (10th Cir. Jan. 19, 2001).

Plaintiff alleged in his complaint that he was denied access to the prison law library at his facility, and prison officials retaliated against him for filing an earlier civil rights lawsuit. After a review of the complaint, the court finds plaintiff has not demonstrated he is in imminent danger of serious physical injury and that he qualifies for the exception in 28 U.S.C. § 1915(g).

ACCORDINGLY, plaintiff's motion for leave to proceed on appeal *in forma pauperis* [Docket #8] is DENIED. Plaintiff is directed to forward the **\$455.00** filing fee to the Court Clerk within twenty (20) days. The agency having custody of plaintiff is ordered to release funds from plaintiff's accounts, including plaintiff's trust account, for payment of the filing fee.

IT IS SO ORDERED this 14th day of March 2011.

Dated this 14th day of March, 2011.


Ronald A. White
United States District Judge
Eastern District of Oklahoma