

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS

BEAUMONT DIVISION

TYRONE NUNN, SR. §
VS. § CIVIL ACTION NO. 1:13cv97
WARDEN VASQUEZ §

MEMORANDUM OPINION AND ORDER

Plaintiff Tyrone Nunn, Sr., an inmate at the Federal Correctional Complex in Beaumont, Texas, proceeding *pro se*, brings this lawsuit against Warden Vasquez.

Discussion

Plaintiff contends he is wrongfully imprisoned for a federal conviction which he claims was committed outside of the jurisdiction of the United States. Plaintiff requests monetary damages in the amount of \$1.6 million per day for false imprisonment.

Plaintiff did not submit the filing fee for this action along with his complaint.

Analysis

Section 1915(g)

Title 28 U.S.C. § 1915(g) prohibits prisoners from repeatedly filing frivolous or malicious complaints. Section 1915(g) provides as follows:

In no event shall a prisoner bring a civil action or appeal a judgment in a civil action [*in forma pauperis*] . . . 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.

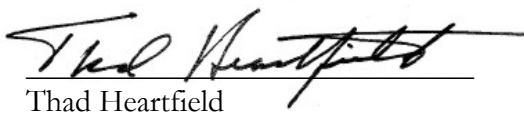
Prior to the date on which he filed this lawsuit, plaintiff has on at least four prior occasions, while incarcerated, brought actions or appeals that were dismissed as frivolous, malicious, or for failing to state a claim upon which relief may be granted.¹ As a result, plaintiff is barred from bringing this action *in forma pauperis* unless he was in imminent danger of serious physical injury at the time he filed this lawsuit. *Banos v. O'Guin*, 144 F.3d 883, 884 (5th Cir. 1998).

As set forth above, plaintiff has had at least four prior lawsuits or appeals dismissed as frivolous, malicious, or for failure to state a claim. The factual allegations set forth in the complaint do not demonstrate that he is in "imminent danger of serious physical injury." Section 1915(g) therefore bars plaintiff from proceeding further with this lawsuit on an *in forma pauperis* basis.

Conclusion

For the reasons set forth above, this action will be dismissed without prejudice pursuant to 28 U.S.C. § 1915(g). An appropriate final judgment shall be entered in accordance with this Memorandum Opinion.

SIGNED this the **26** day of **February, 2013**.


Thad Heartfield
United States District Judge

¹ See *Nunn v. Bank of Wedowee*, No. 3:03cv392 (M.D. Al. June 30, 2003) (dismissed as frivolous); *Nunn v. Clay County Hospital*, No. 7:05cv515 (N.D. Al. June 10, 2005) (dismissed for failure to state a claim); *Nunn v. Bailey*, Civil Action No. 3:05cv1059 (M.D. Al. Nov. 30, 2005) (dismissed as frivolous); *Nunn v. Martin*, Civil Action No. 1:11cv448 (E.D. Tex. Dec. 14, 2011) (dismissed as frivolous and for failure to state a claim).