

United States District Court
Southern District of Texas

ENTERED

July 27, 2017

David J. Bradley, Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION

EARL DANIEL COOPER,
TDCJ #01541308,
Plaintiff,

VS.

L. DOYLE, *et al.*,

Defendants.

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CIVIL ACTION NO. 3:15-CV-253

ORDER

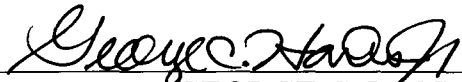
Earl Daniel Cooper (TDCJ #01541308) has brought an action under 42 U.S.C. § 1983 alleging that he was sexually fondled by a guard at the Wayne Scott Unit on May 7, 2015 and struck by other guards when he resisted (Dkt. 3 at pp. 4–6). Cooper is proceeding *pro se*. The Court originally granted him permission to proceed *in forma pauperis* (“IFP”) (Dkt. 14) but, after realizing that he is barred by statute from so proceeding, revoked his IFP status and dismissed this case without prejudice under 28 U.S.C. § 1915(g) (Dkt. 41). A national case index reflects that, while incarcerated, Cooper has filed at least three previous civil actions that have been dismissed by federal courts as frivolous or for failure to state a claim. *See Cooper v. Thaler, et al*, No. 2:11-CV-161 (N.D. Tex. Feb. 7, 2012); *Cooper v. Lopez, et al*, No. 2:11-CV-233 (N.D. Tex. Oct. 11, 2011); *Cooper v. State of Oklahoma, et al.*, No. 4:05-CV-173 (N.D. Okla. May 23, 2005). Cooper only disclosed the most recent case to this Court (Dkt. 1 at p. 2).

Cooper has now filed a notice of appeal and motion for leave to proceed IFP on appeal (Dkt. 46 and Dkt. 47). The motion for leave is denied. The three-strike bar codified in 28 U.S.C. § 1915(g) extends to appellate proceedings. An exception exists for inmates who are “under imminent danger of serious physical injury[,]” *Id.*, but Cooper has not met it.

Cooper’s motion for leave to proceed IFP on appeal (Dkt. 47) is **DENIED**.

The Clerk of this Court shall send a copy of this Order to the parties and to the Clerk of Court of the United States Court of Appeals for the Fifth Circuit. The Fifth Circuit docket number is 17-40759.

SIGNED at Galveston, Texas on July 26, 2017.



GEORGE C. HANKS, JR.
UNITED STATES DISTRICT JUDGE