

United States District Court
Southern District of Texas

ENTERED

June 28, 2017

David J. Bradley, Clerk

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

LARRY WARFIELD,

Plaintiff,

v.

PAM LYCHNER STATE JAIL,

Defendant.

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CIVIL ACTION NO. H-17-1664

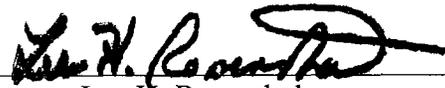
MEMORANDUM AND OPINION

Larry Warfield is an inmate in the Texas Department of Criminal Justice. In this suit under 42 U.S.C. § 1983, he alleges that he was denied his civil rights when he was served unsuitable food. Complaint at 4. Warfield has not paid the filing fee.

Under the Prison Litigation Reform Act of 1995, a prisoner who has had three or more prisoner actions dismissed by federal courts as frivolous or malicious may not file another action without prepaying the filing fee unless the prisoner shows imminent danger. 28 U.S.C. § 1915(g); *Adepegba v. Hammons*, 103 F.3d 383, 385 (5th Cir. 1996). Warfield has had at least three such dismissals. He is no longer allowed to proceed without prepaying fees unless he can show imminent danger. See *Warfield v. Pam Lychner State Jail*, No. 4:17-cv-1637 (S.D. Tex. June 7, 2017); *Warfield v. Unidentified Medical Personnel*, No. 4:17-cv-1636 (S.D. Tex. June 7, 2017); *Warfield v. Unidentified Officer*, No. 4:17-cv-1638 (S.D. Tex. May 31, 2017). Warfield's present filing does not allege any facts showing that he faces an immediate danger of harm that warrants waiving the fee requirement. See *Choyce v. Dominguez*, 160 F.3d 1068, 1071 (5th Cir. 1998); *Banos v. O'Guin*, 144 F.3d 883, 884 (5th Cir. 1998).

In light of the pleadings and his litigation history, Warfield fails to show that he is eligible to proceed without prepaying fees. In addition, he fails to allege facts that state a cause of action on which relief could be granted. This action is dismissed under 28 U.S.C. § 1915(g) and 28 U.S.C. § 1915(e). This dismissal counts as a strike under section § 1915(g). Final judgment is entered by separate order.

SIGNED on June 28, 2017, at Houston, Texas.

A handwritten signature in black ink, appearing to read "Lee H. Rosenthal", written over a horizontal line.

Lee H. Rosenthal
Chief United States District Judge