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IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

JUSTIN M. CORLISS,

Plaintiff

v.

BEN VARNER, *et al.*,

Defendants

CIVIL ACTION NO. 3:CV-02-0282

FILED
SCRANTON

MAR 21 2002
(JUDGE CAPUTO)

PER JS
CLERK

ORDER

This *pro se* civil rights complaint pursuant to 42 U.S.C. § 1983 was initiated by Justin Corliss, who is a state inmate at the state correctional institution at Smithfield ("SCI-Smithfield") in Huntingdon, Pennsylvania. (Doc. 1, Complaint). Along with his action, plaintiff has submitted an application requesting leave to proceed *in forma pauperis*. For the reasons outlined below, the above complaint will be dismissed, without prejudice, pursuant to 28 U.S.C. § 1915(g), and the motion to proceed *in forma pauperis* will be granted only for the purpose of filing the complaint.

Section 1915(g) bars a federal civil action by a prisoner proceeding *in forma pauperis* if he or she 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.

Since December, 1999, Corliss has initiated seven (7) civil actions in this court. Many of his actions, including the following, were dismissed as frivolous pursuant to § 1915(e)(2)(B)(i) or for failure to state a claim upon which relief may be granted pursuant to § 1915(e)(2)(B)(ii): *Corliss v. Pocono Record, et al.*, Civil No.3:CV-02-0078 (M.D. Pa. Jan. 30, 2002) (Caputo, J.); *Corliss v. Horn, et al.*, Civil No.3:CV-01-0229 (M.D. Pa. July 17, 2001) (Caputo, J.); *Corliss v. Stephan, et al.*, Civil No.3:CV-00-1278 (M.D. Pa. Jan. 22, 2001) (Caputo, J.); *Corliss v. Chesney, et al.*, Civil No.3:CV-99-2121 (M.D. Pa. Sept. 26, 2000) (Caputo, J.); *see also Corliss v. Pocono Record, et al.*, Civil No.3:CV-01-1799 (M.D. Pa. Oct. 3, 2001) (Caputo, J.); *Corliss v. Skutnik*, Civil No.3:CV-01-1733 (M.D. Pa. Sept. 26, 2001) (Caputo, J.)

There is no indication that this inmate is in danger of imminent "serious physical injury." Plaintiff alleges in his application to proceed *in forma pauperis* that he has not brought three (3) or more actions or appeals in a court of the United States that were dismissed as frivolous, malicious, or for failure to state a claim upon which relief may be granted. Plaintiff states he has been assaulted by a fellow inmate but does not allege that he still shares a cell with the alleged assailant. Thus, the above-captioned action must be dismissed under § 1915(g). An appropriate order follows.

AND NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. Plaintiff's motion to proceed *in forma pauperis* (Doc. 5) is granted only for the purpose of filing this action.
2. The above complaint is dismissed, without prejudice, pursuant to 28 U.S.C. § 1915(g).
3. The Clerk of Court is directed to close this case.
4. Any appeal from this order will be deemed not taken in good faith. *See* 28 U.S.C. § 1915(a).



A. RICHARD CAPUTO
United States District Judge

DATED: March 21, 2002

FILED
SCRANTON

MAR 21 2002

PER _____
DEPUTY CLERK