

ER

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

JEROME MCDAVIS

FILED

CIVIL ACTION

v.

SEP 29 2009

SUPERINTENDENT DONALD VAUGHN

U.S. District Court

NO. 09-4200

M E M O R A N D U M

ROBRENO, J.

SEPTEMBER 20th, 2009

Plaintiff, an inmate, is seeking to bring a civil action without prepayment of fees. Pursuant to 28 U.S.C. § 1915(g), a prisoner who on three or more prior occasions while incarcerated has filed an action in a federal court that was dismissed as frivolous, malicious, or for failure to state a claim upon which relief may be granted, must be denied in forma pauperis status unless he was in imminent danger of serious physical injury at the time that the complaint was filed. Abdul-Akbar v. McKelvie, 239 F.3d 307 (3d Cir.), cert. denied, 533 U.S. 953 (2001).

There are no allegations in plaintiff's complaint that would suggest that he was in imminent danger of serious physical injury at the time that this action was filed. Furthermore, prior to the filing of the instant case, plaintiff filed three actions, which were dismissed as frivolous or for failure to state a claim upon which relief may be granted.¹

¹ In the United States District Court for the Western District of Pennsylvania, Civil Action No. 01-0491 was dismissed pursuant to 28 U.S.C. § 1915A by Order dated May 14, 2001, Civil Action No. 01-0484 was dismissed pursuant to 28 U.S.C. § 1915A by order dated May 11, 2001, and the United States Court of Appeals for the Third Circuit dismissed that case on appeal, in Civil Action No. 01-2367, pursuant to 28 U.S.C. § 1915(e)(2)(B) by Order filed May 1, 2002.

Accordingly, plaintiff's motion to proceed in forma pauperis will be denied.