

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

ANDRE J. TWITTY, :
 :
 Plaintiff, :
 : PRISONER
 V. : Case No. 3:06-CV-169(RNC)
 :
 KEVIN O'CONNOR, ET AL., :
 :
 Defendants. :

RULING AND ORDER

Plaintiff, a federal inmate, has requested leave to proceed in forma pauperis. A number of the defendants have responded by moving to dismiss the action pursuant to the "three-strikes" rule of the Prison Litigation Reform Act, 28 U.S.C. § 1915(g).¹ I agree that this rule applies and therefore grant the motion to dismiss.

Plaintiff filed the complaint in this action on February 2, 2006, along with a motion for leave to proceed in forma pauperis. On February 23, he was given 30 days to submit a Prisoner Authorization Form and warned that the case would be dismissed if he failed to comply. As of this date, he has not complied.

Section § 1915(g) provides:

In no event shall a prisoner bring a civil action or appeal a judgment in a civil action, or proceeding under this section 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.

Pursuant to the "three-strikes" rule set forth in § 1915(g), plaintiff was denied in forma pauperis status in the U.S. District Court for the Northern District of Georgia in October 2005. See Twitty v. Leta, No. 1:05-CV-2324-TWT (N.D. Ga. Oct. 13, 2005). The court cited three cases that had been dismissed as frivolous: Twitty v. Hawk-Sawyer, No. 7:00-CV-3192 (D.S.C. Mar. 26, 2002); Twitty v. Deane, No. 1:00-CV-1064-TWT (N.D. Ga. July 18, 2000); and Twitty v. Lawson, No. 1:98-CV-3188 (N.D. Ga. Mar. 2, 1999). In addition, on January 5, 2006, the Second Circuit dismissed one of plaintiff's appeals as lacking an arguable basis in law or fact. Twitty v. Choinski, No. 05-3185-pr (2d Cir. Jan. 5, 2006). In light of these previous dismissals, plaintiff may not proceed in forma pauperis.²

Accordingly, the motion to dismiss [Doc. #7] is hereby granted and the case is dismissed as to all defendants without prejudice to refile with the proper filing fee.

So ordered.

Dated at Hartford, Connecticut this 10th day of May 2006.

/s/
Robert N. Chatigny
United States District Judge

The imminent danger exception does not apply. At the time plaintiff filed the complaint, he was incarcerated at the U.S. penitentiary in Florence, Colorado. The claims in the complaint are unrelated to his incarceration there.