

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION

KENEL JOSEPH,

Plaintiff,

v.

Case No.: 2:24-cv-42-SPC-NPM

CENTURION HEALTH,

Defendant.

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**OPINION AND ORDER**

Before the Court is *pro se* Plaintiff Kenel Joseph's Motion to Extend Time to Amend Complaint (Doc. 1). Joseph is a Florida prisoner seeking to proceed *in forma pauperis*. He is subject to the Prison Litigation Reform Act's three-strikes rule, which states that a prisoner cannot proceed *in forma pauperis* if "on 3 or more prior occasions, while incarcerated or detained in any facility, [he] brought an action or appeal in a [federal] court...that was dismissed on the grounds that it is frivolous, malicious, or fails to state claim upon which relief may be granted[.]"<sup>1</sup> 28 U.S.C. § 1915(g).

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<sup>1</sup> The Court takes judicial notice of Joseph's three prior federal lawsuits, all of which were dismissed as frivolous, malicious, or failing to state claim upon which relief may be granted: Cases Nos. (1) 2:23-cv-255-SPC-NPM (failure to state a claim); (2) 2:23-cv-564-SPC-NPM (failure to state a claim); and (3) 2:23-cv-578-SPC-NPM (frivolous).

Joseph commenced this action with a Complaint that merely listed medical conditions that have gone untreated in four Florida prisons since 2022. The complaint also includes a conclusory allegation of a risk of imminent harm to circumvent the three-strikes rule. The Court dismissed the complaint but gave Joseph an opportunity to amend. He now asks for 60-day extension of time. (Doc. 8). The request belies Joseph's claim that he is at risk of imminent harm, so he is not exempt from the three-strikes rule. *See Mitchell v. Nobles*, 873 F. 3d 869, 872 (11th Cir. 2017). And anyhow, Joseph is currently incarcerated in Union County, which this Court does not serve. So even if Joseph has an urgent claim relating to his current conditions of confinement, this is not the proper venue.

The Court this action without prejudice. If Joseph's wishes to pursue claims stemming from his incarceration in a county served by this Court, he must file a new complaint—under a new case number—and pay the \$405.00 filing fee. Any claims arising in Union County must be filed in the Jacksonville Division of the Middle District of Florida.


Accordingly, it is

**ORDERED:**

1. This action is **DISMISSED without prejudice** under 28 U.S.C. § 1915(g).

2. The Clerk is **DIRECTED** to enter judgment, terminate any pending motions and deadlines, and close this file.

**DONE** and **ORDERED** in Fort Myers, Florida on February 9, 2024.

  
**SHERI POLSTER CHAPPELL**  
**UNITED STATES DISTRICT JUDGE**

SA: FTMP-1

Copies: All Parties of Record