

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
OCALA DIVISION

JEROME HEAVEN, JR.,

Plaintiff,

v.

Case No: 5:24-cv-503-JSS-PRL

ADVENT HEALTH CARE,

Defendant.

ORDER

Pro se Plaintiff Jerome Heaven, Jr. filed a Civil Rights Complaint, on September 11, 2024.¹ (Dkt. 1.) Because Plaintiff failed to pay the \$405.00 filing fee and is barred from proceeding in forma pauperis under 28 U.S.C. § 1915(g), the court dismisses this action without prejudice.

Under § 1915(g), 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 a claim upon which relief may be granted[.]” 28 U.S.C. § 1915(g); see *Lomax v. Ortiz-Marquez*, 140 S. Ct. 1721, 1723 (2020) (“To help staunch a ‘flood of nonmeritorious’ prisoner litigation, the Prison Litigation Reform Act of

¹ Although Plaintiff submitted his complaint on the form for initiating a Petition Under 28 U.S.C. § 2254 for Writ of Habeas Corpus by a Person in State Custody, the complaint was properly docketed as a civil rights action because Plaintiff seeks damages and the defendant is not his custodian.

1995 (PLRA) established what has become known as the three-strikes rule.” (citation omitted)). If a prisoner is subject to the three-strikes rule, he cannot proceed in forma pauperis and must pay the filing fee in full at the time the lawsuit is initiated. *Dupree v. Palmer*, 284 F.3d 1234, 1236 (11th Cir. 2002).

The court takes judicial notice of Plaintiff’s prior federal lawsuits, at least three of which were filed before this case and dismissed as frivolous, malicious, or failing to state claim upon which relief may be granted:

- *Heaven v. Seven Eleven*, Case No. 5:23-cv-281-BJD-PRL (M.D. Fla. Sept. 11, 2023) (dismissing as frivolous).
- *Heaven v. Green Gait*, Case No. 5:23-cv-291-BJD-PRL (M.D. Fla. Sept. 8, 2023) (dismissing as frivolous).
- *Heaven v. Tarquin*, Case No. 5:23-cv-295-TPB-PRL (M.D. Fla. Sept. 8, 2023) (dismissing as frivolous).

Furthermore, Plaintiff is not exempt from section 1915(g)’s three-strikes rule, as the Complaint does not allege he is in imminent danger of serious physical injury. *Mitchell v. Nobles*, 873 F.3d 869, 872 (11th Cir. 2017).

The court thus dismisses the Complaint without prejudice. If Plaintiff wishes to pursue his claim(s), he must file a new complaint—under a new case number—and pay the \$405.00 filing fee.

Accordingly:

1. The Complaint (Dkt. 1) is **DISMISSED without prejudice** pursuant to 28 U.S.C. § 1915(g).

2. The Clerk is **DIRECTED** to close this case and terminate any pending motions.

ORDERED in Orlando, Florida on October 24, 2024.



JULIE S. SNEED
UNITED STATES DISTRICT JUDGE

Copies furnished to:
Unrepresented Party