

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
OCALA DIVISION

JEROME HEAVEN, JR.,

Plaintiff,

v.

Case No: 5:24-cv-507-JSS-PRL

GREEN GAITS, JACKIE
NAYMAN, JIM PETITIS, and
WESLEY AUTHOR MILLS,

Defendants.

ORDER

Pro se Plaintiff Jerome Heaven, Jr. filed a Civil Rights Complaint, on September 16, 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

¹ Although Plaintiff submitted his complaint on the form for initiating a Petition for Writ of Habeas Corpus Under 28 U.S.C. § 2241, the complaint was properly docketed as a civil rights action because Plaintiff seeks injunctive relief and damages and the defendants are not his custodian.

a ‘flood of nonmeritorious’ prisoner litigation, the Prison Litigation Reform Act of 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