

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

MICHAEL S. GORBHEY,

Plaintiff,

v.

CASE NO. 10-3187-SAC

H. WATTS, FEDERAL
BUREAU OF PRISONS
REGIONAL DIRECTOR,
et al.,

Defendants.

O R D E R

This pleading entitled "Intentional Negligent Tort Civil Action Complaint" was filed pro se by a federal inmate currently confined at the Coleman Medium Federal Correctional Institution in Coleman, Florida. Section 1915(g) of 28 U.S.C. 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 that 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.

Id. Mr. Gorbey has previously been designated a three-strikes litigant under Section 1915(g). See Gorbey v. BOPs throughout the US, Case No. 10-cv-309-0c-36GRJ (July 28, 2010). He is therefore required to "pay up front for the privilege of filing . . . any additional civil actions," unless he can show "imminent danger of serious physical injury." 28 U.S.C. 1915(g); Jennings v. Natrona County Detention Center, 175 F.3d 775, 778 (10th Cir. 1999); see also Ibrahim v. District of Columbia, 463 F.3d 3, 6 (D.C. Cir. 2006) ("Congress enacted the PLRA primarily to curtail claims brought

by prisoners under 42 U.S.C. 1983 and the Federal Tort Claims Act, most of which concern prison conditions and many of which are routinely dismissed as legally frivolous."); Santana v. United States, 98 F.3d 752, 755 (3d Cir. 1996)(citing legislative history); In re Smith, 114 F.3d 1247, 1249 (D.C. Cir. 1997). None of the facts alleged by plaintiff suggests that he is in imminent danger of serious physical injury. Accordingly, Mr. Gorbey may proceed in this action only if he pays the filing fee of \$350.00 for filing a civil complaint.

IT IS THEREFORE BY THE COURT ORDERED that plaintiff's application for leave to proceed in forma pauperis (Doc. 2) is denied; he is granted twenty (20) days in which to submit the \$350.00 filing fee; and failure to pay the full filing fee within that time will result in the dismissal of this action without prejudice.

IT IS SO ORDERED.

Dated this 13th day of October, 2010, at Topeka, Kansas.

s/Sam A. Crow
U. S. Senior District Judge