

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

ANTONIO JOSEPH MCKENDALL

CIVIL ACTION

VERSUS

NO. 18-5102

**JESSICA PURICONA, MR. DENKS,
HEADQUARTERS - DEPARTMENT
OF CORRECTIONS**

SECTION "I"(4)

ORDER AND REASONS

Plaintiff, Antonio Joseph McKendall, is a prisoner currently incarcerated in the Winn Correctional Center. He is a frequent filer of frivolous lawsuits in the federal courts. McKendall filed the instant complaint pursuant to 42 U.S.C. § 1983 against the defendants, Parole Officer Jessica Puricono, Parole Supervisor Denks, and the Louisiana Department of Corrections, alleging that Puricono falsified information about him to have him moved to a jail from a mental health facility. He also claims that Denks inappropriately touched his hand during a conversation at the jail. He requests monetary compensation and injunctive relief. (Rec. Doc. No. 3, Complaint).

With his complaint, plaintiff submitted an application to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915. This is a non-dispositive pretrial matter which was referred to the undersigned magistrate judge pursuant to Local Rule 72.1(B)(1) and 28 U.S.C. § 636(b).

The Prison Litigation Reform Act of 1996, Pub. L. No. 104-134, 110 Stat. 1321, now codified at 28 U.S.C. § 1915(g), provides that a prisoner shall not be allowed to bring a civil action pursuant to § 1915 if he has, on three 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 as frivolous, malicious, or for failure to state a claim for which relief can be granted, unless the prisoner is under imminent danger of serious physical injury. The Court's records establish that at least three of McKendall's prior civil complaints, filed while he was incarcerated, were

dismissed as frivolous and/or for failure to state a claim. These include but are not limited to the following: *Joseph McKendall v. C.M. Lensing*, Civ. Action 01-0539 (M.D. La. 2001) (dismissed with prejudice as frivolous and for failure to state a claim); *Joseph McKendall v. Richard L. Stalder et al.*, Civ. Action No. 04-0371 (M.D. La. 2004) (dismissed with prejudice for failure to state a claim and appeal dismissed as frivolous); *Joseph McKendall v. Ms. Blakley et al.*, Civil Action No. 08-4722“D”(1) (E.D. La.) (dismissed with prejudice as frivolous and for failure to state a claim). He has therefore accumulated at least three “strikes” under the PLRA.

Under these circumstances, plaintiff may not proceed as a pauper in this action unless he fits within the “imminent danger” exception of § 1915(g). McKendall has not alleged that he currently is in imminent danger of any serious physical injury and allegations of past harms or dangers do not suffice. *Cloud v. Stotts*, 455 F. App’x 534 (5th Cir. 2011); *Banos v. O’Guinn*, 144 F.3d 883, 884 (5th Cir. 1998); *Comeaux v. Broom*, No. 11-CV-110, 2012 WL 4739576 (N.D. Tex. 2012). McKendall, therefore, is not entitled to proceed *in forma pauperis* pursuant to the provisions of § 1915(g). Accordingly,

IT IS ORDERED that McKendall’s motion to proceed *in forma pauperis* (Rec. Doc. No. 4) is **DENIED** pursuant to 28 U.S.C. § 1915(g).

New Orleans, Louisiana this 8th day of June, 2017.



KAREN WELLS ROBY
CHIEF UNITED STATES MAGISTRATE JUDGE