

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

JAMES THEODORE ROSS, #334624

Plaintiff,

v.

ROCHE PHARMACEUTICALS
ROCHE LABORATORIES, INC.

Defendants.

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CIVIL ACTION NO. RWT-06-925

MEMORANDUM OPINION

On April 11, 2006, James Theodore Ross, an inmate housed at the Maryland Reception Diagnostic and Classification Center, filed this product liability complaint for \$10,000,000.00 in damages against a pharmaceutical company, alleging that he suffered psychological injury, i.e., depression and psychosis, along with unspecified medical problems as a result of taking the drug Accutane from 1983 to 1988.¹ (Paper No. 1).

Plaintiff has filed a Motion to Proceed In Forma Pauperis. However, he has accumulated three “strikes” or dismissals of his prior prisoner civil actions pursuant to 28 U.S.C. § 1915(e).² 28 U.S.C. § 1915(g) provides that:

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 on 3 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 on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoners is under imminent danger of serious physical injury.

This case does not fall under the “imminent danger” exception to § 1915(g). See Lewis v.

¹ Plaintiff claims he just became aware of the “drug being defective through the media...” (Paper No. 1).

² See Ross v. Baker, Civil Action No. DKC-99-1572 (D.Md.) (dismissed June 16, 1999); Ross v. Baker, DKC-99-1603 (D.Md.) (dismissed June 16, 1999); and Ross v. Baker, DKC-99-1690 (D. Md.) (dismissed June 29, 1999). This court will continue to rely on those rulings to enter § 1915(g) dismissals when appropriate. See Evans v. Illinois Dep’t of Corrections, 150 F.3d 810, 812 (7th Cir. 1998) (district court must cite specific case information upon which it issued a § 1915(g) dismissal).

Sullivan, 279 F.3d 526, 529 (7th Cir. 2002); see also Heimermann v. Litscher, 337 F.3d 781 (7th Cir. 2003); Malik v. McGinnis, 293 F.3d 559, 562-63 (2d Cir. 2002); Abdul-Akbar v. McKelvie, 239 F.3d 307, 318 (3d Cir. 2001) (en banc). Plaintiff is therefore not entitled to leave to proceed in forma pauperis.

A separate Order will be entered denying Plaintiff's Motion for Leave to Proceed In Forma Pauperis and dismissing the action without prejudice. Plaintiff is advised that he may re-file this action upon payment of the civil filing fee. A separate Order shall follow.

Date: April 26, 2006

/s/
Roger W. Titus
United States District Judge