

APPÉNDIX A

FILED: March 27, 2023

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

No. 22-7468
(5:22-ct-03366-D-RJ)

JORGE GALEAS, JR.

Plaintiff - Appellant

v.

SERGEANT ADAM GIBSON; LIEUTENANT LOGAN MILLER

Defendants - Appellees

O R D E R

The court dismisses this proceeding for failure to prosecute pursuant to Local Rule 45.

For the Court--By Direction

/s/ Patricia S. Connor, Clerk

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Plaintiff - Appellant

v.

SERGEANT ADAM GIBSON; LIEUTENANT LOGAN MILLER

Defendants - Appellees

RULE 45 MANDATE

This court's order dismissing this appeal pursuant to Local Rule 45 takes effect today.

This constitutes the formal mandate of this court issued pursuant to Rule 41(a) of the Federal Rules of Appellate Procedure.

/s/Patricia S. Connor, Clerk

APPENDIX A

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:22-CT-3366-D

JORGE GALEAS-MENCHÚ-EL JR.,)
Plaintiff,)
v.) **ORDER**
SGT. ADAM GIBSON, et al.,)
Defendants.)

On October 5, 2022, Jorge Galeas-Menchú-El Jr. ("Galeas" or "plaintiff") filed a complaint [D.E. 1] along with "truth affidavits" [D.E. 2-3]. Galeas seeks leave to proceed in forma pauperis [D.E. 6]. As explained below, the court dismisses the action.

Galeas is incarcerated at Maury Correctional Institution. Citing a number of frivolous legal theories, Galeas challenges an incident at Pamlico Correctional Institution on June 26, 2022, which resulted in the confiscation of a cell phone and several disciplinary convictions. See [D.E. 1-2]. Galeas seeks declaratory relief, the return of his cell phone,¹ and "exemplary damages." [D.E. 1] 17-18; [D.E. 2] 17.

Galeas "is an abusive and frequent filer of Section 1983 actions in this and other federal district courts in this circuit." Galeas v. Pinion, No. 3:12-CV-328-RJC, 2014 WL 2013407, at *2 n.1 (W.D.N.C. May 16, 2014) (unpublished). On November 28, 2012, the Western District of North Carolina dismissed as malicious an action Galeas filed and noted that it was Galeas's third strike in

¹ "Any inmate in the custody of the Division of Adult Correction of the Department of Public Safety . . . who possesses a mobile telephone or other wireless communication device or a component of one of those devices is guilty of a Class H felony." N.C. Gen. Stat. § 14-258.1(g).

(unpublished). “Vague, speculative, or conclusory allegations are insufficient to invoke the exception.” Johnson, 200 F. App’x at 272. Rather, the inmate must make “specific fact allegations of ongoing serious physical injury, or of a pattern of misconduct evidencing the likelihood of imminent serious physical injury.” Martin, 319 F.3d at 1050.

Galeas fails to allege plausibly that he is presently under imminent danger of serious physical injury. Thus, Galeas has not made a colorable showing that this action should proceed under the exception to the PLRA’s three-strikes rule.

In sum, the court DISMISSES plaintiff’s complaint [D.E. 1] and DENIES plaintiff’s application to proceed in forma pauperis [D.E. 6] under 28 U.S.C. § 1915(g). The clerk shall close the case.

SO ORDERED. This 6 day of December, 2022.

J. C. Dever
JAMES C. DEVER III
United States District Judge

APPENDIX A

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

JORGE GALEAS, JR.,
Plaintiff,

v.
SERGEANT ADAM GIBSON and
LIEUTENANT LOGAN MILLER,
Defendants.

Judgment in a Civil Case

Case Number: 5:22-CT-3366-D

Decision by Court.

This action came before the Honorable James C. Dever, III, United States District Judge, for frivolity review pursuant to 28 U.S.C. § 1915.

IT IS ORDERED AND ADJUDGED that this action is hereby dismissed.

This Judgment Filed and Entered on December 6, 2022, with service on:

Jorge Galeas, Jr., #0655559
Maury Correctional Institution
P.O. Box 506
Maury, NC 28554 (via U.S. Mail)

December 6, 2022

Peter A. Moore, Jr.

Clerk of Court

By:

Aquela Rose
Deputy Clerk

APPENDIX A

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:22-CT-3366-D

JORGE GALEAS-MENCHÚ-EL JR.)
Plaintiff,)
v.) ORDER
SGT. ADAM GIBSON, et al.,)
Defendants.)

On October 5, 2022, Jorge Galeas-Menchú-El Jr. ("Galeas" or "plaintiff") filed a complaint [D.E. 1] along with "truth affidavits" [D.E. 2-3]. On December 6, 2022, the court dismissed the complaint and denied plaintiff's application to proceed in forma pauperis under 28 U.S.C. § 1915(g), and the clerk entered judgment. See [D.E. 7, 8]. Galeas appealed [D.E. 11]. On March 27, 2023, the United States Court of Appeals for the Fourth Circuit dismissed the appeal for failure to prosecute and entered its mandate. See [D.E. 14, 15].

Galeas moves for judgment on the pleadings [D.E. 9] and "a copy of all my documents filed in this court pertaining to this matter" [D.E. 10]. The court denies Galeas's motion for judgment on the pleadings as meritless. As for Galeas's motion for copies, the clerk of court will provide such copies for a fee of fifty cents per page. See 28 U.S.C. § 1914(b); District Court Miscellaneous Fee Schedule, n.4, U.S. Courts (effective Dec. 1, 2020), <https://www.uscourts.gov/services-forms/fees/district-court-miscellaneous-fee-schedule>. Galeas may submit his request for copies directly to the clerk of court and pay the required fee. Accordingly, the court denies the motion.

In sum, the court DENIES plaintiff's motions [D.E. 9, 10].

**Additional material
from this filing is
available in the
Clerk's Office.**