

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

DAVID VIALIZ

PRISONER

V.

Case No. 3:11-CV-1654 (RNC)

THOMAS NALBAND, et al.

RULING AND ORDER

Plaintiff, a Connecticut inmate at the time this action was filed, brings this suit against two Connecticut public defenders seeking damages on the ground that they failed to provide him with effective assistance of counsel in a criminal case. He seeks leave to proceed in forma pauperis ("IFP") and asks for a settlement conference. For reasons set forth below, these requests are denied.

Under the three-strikes provision of the Prison Litigation Reform Act, 28 U.S.C. § 1915(g), an inmate may not proceed IFP if he has previously brought three or more actions that were dismissed for failure to state a claim upon which relief could be granted. This rule applies to the plaintiff. See Vializ v. Dalton, Case No. 3:11cv162(RNC) (D. Conn. dismissed 3/4/11); Vializ v. Dzurenda, 3:11cv150(AVC) (D. Conn. dismissed 3/31/11); and Vializ v. Moss, 3:11cv227(RNC) (D. Conn. dismissed 3/28/11). Because the three-strikes provision applies, plaintiff may bring this action without payment of the filing fee only if the suit is brought to obtain a judicial remedy for an imminent danger of serious physical injury. See Pettus v. Morgenthau, 554 F.3d 293, 297 (2d Cir. 2009). Clearly, that is not the case.

Accordingly, plaintiff's application to proceed IFP and his motion for a settlement conference are hereby denied.

All further proceedings in this matter will be held in abeyance for twenty days pending plaintiff's delivery of the filing fee in the amount of \$350.00 to the Clerk's Office, 915 Lafayette Boulevard, Bridgeport, CT 06604. Failure to tender the filing fee within time specified will result in dismissal of this action.

So ordered this 27th day of September 2012.

/s/
Robert N. Chatigny
United States District Judge