

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

FILED

JAN 22 2015

Clerk, U.S. District & Bankruptcy
Courts for the District of Columbia

VICTOR C. FOURSTAR, JR.,)
)
Plaintiff,)
)
v.)
)
GARDEN CITY GROUP, *et al.*,)
)
Defendants.)

Case: 1:15-mc-00076
Assigned To : Unassigned
Assign. Date : 1/22/2015
Description: Unassigned

MEMORANDUM OPINION AND ORDER

Pursuant to the Prison Litigation Reform Act (“PLRA”), unless a prisoner “is under imminent danger of serious physical injury,” he may not proceed *in forma pauperis* if while incarcerated he has filed at least three prior cases that were dismissed as frivolous, malicious, or for failure to state a claim. 28 U.S.C. § 1915(g); *see Ibrahim v. District of Columbia*, 463 F.3d 3, 6 (D.C. Cir. 2006). This provision “neither divests a prisoner of his right to bring a claim nor changes the law in a way that adversely affects his prospects for success on the merits of the claim.” *Ibrahim v. District of Columbia*, 208 F.3d 1032, 1036 (D.C. Cir. 2000). A prisoner who is “not allowed to proceed [*in forma pauperis*] may pursue [his] substantive claims just as anyone else by paying the filing fee.” *Adepegba v. Hammons*, 103 F.3d 383, 387 (5th Cir. 1996).

The plaintiff has accumulated at least three strikes. *See Fourstar v. Murlak*, No. 07-cv-5892, 2010 WL 2163993 (C.D. Cal. May 26, 2010) (dismissing action with prejudice for frivolousness and for failure to state a claim and assessing one “strike”), *aff’d*, No. 10-56006 (9th Cir. Sept. 14, 2010); *Fourstar v. Zemyan*, No. 4:08-cv-50 (D. Mont. Aug. 26, 2008) (adopting Magistrate Judge’s Findings and Recommendation to dismiss complaint, to assess one “strike,” and to certify that appeal would not be taken in good faith), *appeal dismissed*, No. 08-35819 (9th

Cir. Apr. 14, 2009); *Fourstar v. Ness*, No. 4:05-cv-108 (D. Mont. Apr. 26, 2006) (dismissing complaint for failure to state a claim upon which relief can be granted and assessing one “strike”), *aff’d*, 276 F. App’x 661 (9th Cir. 2008); *see also Fourstar v. Eckroth*, 512 F. App’x 127 (3d Cir.) (per curiam) (affirming denial of motion to proceed *in forma pauperis* under § 1915(g) and dismissal of civil rights complaint), *cert. denied*, 134 S. Ct. 263 (2013); *Fourstar v. Costell*, No. 14-cv-00957, 2014 WL 4826753 (S.D. Ill. Sept. 29, 2014) (denying motion to proceed *in forma pauperis* under § 1915(g)). Because the plaintiff does not allege that he is in imminent danger of serious physical injury, he has not qualified for the imminent danger exception.

Accordingly, it is hereby

ORDERED that the plaintiff’s application to proceed *in forma pauperis* is DENIED pursuant to 28 U.S.C. § 1915(g); it is

FURTHER ORDERED that this action is DISMISSED.

This is a final appealable Order.

SO ORDERED.



United States District Judge

DATE: *January 16, 2015*