

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

DAVID L. SMITH,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 16-998 (UNA)
)	
U.S. JUDGE TERRENCE W. BOYLE, <i>et al.</i> ,)	
)	
Defendants.)	

MEMORANDUM OPINION

This matter is before the Court on plaintiff’s application to proceed *in forma pauperis*. For the reasons discussed below, the application will be denied.

Generally, a plaintiff is required to pay a filing fee in full. *See* 28 U.S.C. §§ 1914(a), 1915(b)(1). Pursuant to the Prison Litigation Reform Act (“PLRA”), “[a] prisoner who qualifies for [*in forma pauperis*] status . . . need not pay the full filing fee at the time he brings suit,” and instead he is allowed to “pay the filing fee in installments over time.” *Asemani v. U.S. Citizenship & Immigration Servs.*, 797 F.3d 1069, 1072 (D.C. Cir. 2015) (citations omitted). However, certain prisoners cannot qualify for *in forma pauperis* status under the PLRA’s “three strikes” rule:

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 has, 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 prisoner is under imminent danger of serious physical injury.

Id. (quoting 28 U.S.C. § 1915(g)); *see* 28 U.S.C. §§ 1915(e)(2)(B), 1915A(b). This plaintiff has accumulated more than three strikes. *See Smith v. State of North Carolina*, No. 5:06-CT-3010

(W.D.N.C. Mar. 20, 2006) (citing cases); *see also Faison v. North Carolina*, No. 5:13-CT-3199 (W.D.N.C. Dec. 3, 2013) (adopting Magistrate Judge Report and Recommendation to dismiss David Lee Smith as a party plaintiff under 28 U.S.C. § 1915(g)).

Under these circumstances, the plaintiff may proceed *in forma pauperis* only if he is “under imminent danger of serious physical injury.” 28 U.S.C. § 1915(g). He fails to allege facts showing that he is under imminent danger of serious physical injury and, therefore, his application to proceed *in forma pauperis* must be denied.

An Order is issued separately.

DATE: 6/13/16


United States District Judge