

UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

Everett McKinley Dirksen
United States Courthouse
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PLRA C.R. 3(b) FINAL ORDER

February 15, 2022

	BRALEN LAMAR JORDAN, Plaintiff - Appellant
No. 21-3301	v. FEDERAL BUREAU OF PRISONS, et al., Defendants - Appellees
Originating Case Information:	
District Court No: 3:21-cv-50423 Northern District of Illinois, Western Division District Judge Iain D. Johnston	

The pro se appellant was DENIED leave to proceed on appeal in forma pauperis by the appellate court on December 29, 2021 and was given fourteen (14) days to pay the \$505.00 filing fee. The pro se appellant has not paid the \$505.00 appellate fee. Accordingly, **IT IS ORDERED** that this appeal is DISMISSED for failure to pay the required docketing fee pursuant to Circuit Rule 3(b).

IT IS FURTHER ORDERED that the appellant pay the appellate fee of \$505.00 to the clerk of the district court. The clerk of the district court shall collect the appellate fees from the prisoner's trust fund account using the mechanism of *Section 1915(b)*. *Newlin v. Helman*, 123 F.3d 429, 433 (7th Cir. 1997).

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ILLINOIS
WESTERN DIVISION

Bralen Lamar Jordan (22702-009),)
Plaintiff,) Case No. 21 C 50423
)
v.) Hon. Iain D. Johnston
)
United States Federal Bureau of Prisons, et al.,)
Defendants.)

ORDER

Plaintiff's application for leave to proceed *in forma pauperis* [3] is denied because Plaintiff has "struck out" under 28 U.S.C. § 1915(g). If Plaintiff wants to proceed with this action, he must pay the full statutory filing fee of \$402.00. Failure to comply with this order by December 17, 2021, will result in dismissal of this case.

STATEMENT

Plaintiff Bralen Jordan, a federal inmate at USP Thomson, brings this lawsuit *pro se* pursuant to *Bivens v. Six Unknown Named Agents of the Fed. Bureau of Narcotics*, 403 U.S. 388 (1971) and the Federal Tort Claims Act. Plaintiff appears to be alleging he has been improperly assigned to Thomson's Special Management Unit (SMU) for the past three years and that he does not receive proper medical care in the SMU. (See Dkt. 1.)

Plaintiff seeks leave to proceed *in forma pauperis*. However, a review of his litigation history indicates he is barred from proceeding without payment of the full statutory filing fee in advance because he has "struck out." The Prison Litigation Reform Act (PLRA), provides that a prisoner may not bring a civil action or appeal a civil judgment without prepayment of the filing fee "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." 28 U.S.C. § 1915(g).

Prior to initiating this lawsuit, at least three of Plaintiff's lawsuits were dismissed for failure to state a claim: *Jordan v. Connors*, No. 6:20-cv-0164, (E.D. Ky) (Wilhoit, J.) (dismissed for failure to state a claim on September 14, 2020); *Jordan v. Samuels*, No. 3:20-cv-50211 (N.D. Ill.) (Johnston, J.) (dismissed for failure to state a claim on November 2, 2020); and *Jordan v. Rivers*, No. 3:20-cv-50297 (N.D. Ill.) (Johnston, J.) (dismissed for failure to state a claim on November 12, 2020). Thus, Plaintiff has struck out under 28 U.S.C. § 1915(g).

Plaintiff is reminded that he must clearly disclose that he has struck out when filing future lawsuits. Although he lists the three cases above in his complaint and noted they had been previously dismissed, he does not explicitly state that these three cases counted as strikes or that

he is barred by 28 U.S.C. § 1915(g) from proceeding without prepayment of the fee. Plaintiff must specifically alert federal courts that he has been assessed three strikes under § 1915(g) when filing a new suit or appeal. *See Ammons v. Gerlinger*, 547 F.3d 724, 725 (7th Cir. 2008) (citing *Sloan v. Lesza*, 181 F.3d 857, 858-59 (7th Cir. 1999)). Failure to do so may result in sanctions including dismissal. *See Sloan v. Lesza*, 181 F.3d 857, 859 (7th Cir. 1999).

Because Plaintiff has struck out, he may not litigate in federal court without prepayment of the filing fee unless he is “under imminent danger of serious physical injury.” The imminent danger exception is available only “for genuine emergencies,” where “time is pressing” and the threat of serious physical injury is “real and proximate.” *Lewis v. Sullivan*, 279 F.3d 526, 531 (7th Cir. 2002). When assessing a prisoner’s assertions of imminent danger, the Court looks to the “well-pled” factual allegations of the complaint, which are not “conclusory or ridiculous,” and indicate harm that is “imminent or occurring at the time,” rather than “past harm.” *Ciarpaglini v. Saini*, 352 F.3d 328, 330 (7th Cir. 2003). The allegations must be rooted in facts, not merely labels and conclusions, *see id.*; *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007), and must be plausible, *Sanders v. Melvin*, 873 F.3d 957, 960 (7th Cir. 2017).

There is no reason to believe that application of the imminent danger exception is warranted for the claims presented by this case. Plaintiff’s pleading is a mishmash of complaints stemming from his assignment to Thomson’s SMU. (Dkt. 1.) Plaintiff appears to contend that he should not be housed in the SMU and that his medical care is somehow less than adequate because of his housing placement. (Dkt. 1.) The complaint, however, is entirely composed of conclusory allegations unsupported by any facts. These allegations do not support a finding that Plaintiff is at risk of imminent harm. *Taylor v. Watkins*, 623 F.3d 483, 485 (7th Cir. 2010) (“Courts routinely deny IFP requests where the imminent-danger allegations are “conclusory or ridiculous”). Moreover, Plaintiff indicates the problems described in the complaint have been ongoing for approximately three years (Dkt. 1, pg. 5.) Given that Plaintiff waited three years to file this lawsuit, his allegations do not suggest the harms he may be facing are imminent. Accordingly, 28 U.S.C. § 1915(g) prevents Plaintiff from proceeding in this case without the full prepayment of the \$402.00 filing fee.

If Plaintiff wants to proceed with this action, he must pay the full statutory filing fee of \$402.00 in advance. Plaintiff may pay by check or money order made payable to Clerk, United States District Court. If Plaintiff fails to comply with this order by the date set forth above, the case will be summarily dismissed.

Date: November 23, 2021

By:



Iain D. Johnston
United States District Judge