

UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

No: 25-2215

Michael Otis Robertson

Plaintiff - Appellant

v.

Demario White, Rapper, Artists CMG Label "AKA Money Baggyo"

Defendant - Appellee

Appeal from U.S. District Court for the Eastern District of Arkansas - Central
(4:25-cv-00403-JM)

JUDGMENT

Before SHEPHERD, KELLY, and STRAS, Circuit Judges.

The court has carefully considered appellant's motion for leave to proceed on appeal in forma pauperis and the original file of the United States District Court. The motion is denied and the appeal is hereby dismissed for failure to pay the filing fee or to demonstrate eligibility to proceed in forma pauperis on appeal under 28 U.S.C. § 1915(g).

October 21, 2025

Order Entered at the Direction of the Court:
Clerk, U.S. Court of Appeals, Eighth Circuit.

/s/ Susan E. Bindler

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
CENTRAL DIVISION

MICHAEL OTIS ROBERTSON
ADC #136346

PLAINTIFF

v.

Case No: 4:25-CV-403-JM

DEMARIO WHITE, Rapper, Artists
CMG Label "AKA Money Baggyo"

DEFENDANT

ORDER

Plaintiff Michael Otis Robertson, an inmate at the Varner Unit of the Arkansas Division of Correction, filed a *pro se* complaint pursuant to 42 U.S.C. § 1983, (Doc. 1), along with an application to proceed *in forma pauperis* (Doc. 7). Because Mr. Robertson's complaint must be dismissed, without prejudice, pursuant to the three-strikes provision of the Prison Litigation Reform Act ("PLRA"), he is not entitled to *in forma pauperis* status. Accordingly, his IFP Motion (Doc. 7) is denied.

Under the three-strikes provision of the PLRA, a prisoner's *in forma pauperis* action must be dismissed, *sua sponte* or upon a motion of a party, 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). The Eighth Circuit has upheld the constitutionality of the three-strikes provision. *Higgins v. Carpenter*, 258 F.3d 797, 801 (8th Cir. 2001).

Records in the office of the Clerk of Court for the Eastern District of Arkansas reveal that Mr. Robertson has had three prior civil actions dismissed for failure to state a claim upon which relief may be granted. *See Robertson v. Page*, No. 1:11-cv-24-SWW (E.D. Ark.); *Robertson v.*

Holladay, No. 4:19-cv-246-BRW (E.D. Ark.); *Robertson v. Turn Key Medical*, 4:21-cv-01066-DPM (E.D. Ark.). Mr. Robertson nonetheless may proceed *in forma pauperis* if he establishes that he is in imminent danger of serious physical injury. See 28 U.S.C. § 1915(g); *Ashley v. Dilworth*, 147 F.3d 715, 717 (8th Cir. 1998).

Mr. Robertson alleges that Defendant unlawfully used his lyrics as his own in a rap song. (Doc. 6). The imminent danger exception “focuses on the risk that the conduct complained of threatens continuing or future injury” *Martin v. Shelton*, 319 F.3d 1048, 1050 (8th Cir. 2003). Nothing in Mr. Robertson’s complaint indicates that he faces an imminent danger; therefore, that exception does not apply. *Dilworth*, 147 F.3d at 717.

IT IS THEREFORE ORDERED THAT:

1. Mr. Robertson’s complaint is DISMISSED WITHOUT PREJUDICE. Should he wish to continue this case, Mr. Robertson must submit the statutory filing and administrative fees of \$405 to the Clerk of the Court, noting the above case style number, within thirty (30) days of the entry date of this order, along with a motion to reopen the case. Upon receipt of the motion and full payment, this case will be reopened.
2. Mr. Robertson’s IFP motion (Doc. 7) is DENIED.
3. It is CERTIFIED that an *in forma pauperis* appeal from this order or any judgment entered hereunder would not be taken in good faith.

IT IS SO ORDERED this 21st day of May, 2025.


UNITED STATES DISTRICT JUDGE

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