

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ALABAMA  
JASPER DIVISION

ANTHONY LYNN JOHNSON,  
Plaintiff,

v.

MR. SMITH, et al.,  
Defendants.

Case No. 6:22-cv-1227-CLM-SGC

MEMORANDUM OPINION

The magistrate judge has entered a report recommending the court deny Plaintiff Anthony Lynn Johnson's motion for in forma pauperis status and dismiss this case under the three strikes provision of 28 U.S.C. § 1915(g). (Doc. 7). Johnson objected to the report and recommendation, stating he did not understand that he was required to pay the filing fee at the time he filed this suit and requesting an extension of unspecified time to pay the fee. (Doc. 8). The Eleventh Circuit has held that when a prisoner with three strikes files a complaint without paying the filing fee, the district court should dismiss the complaint without prejudice. *Dupree v. Palmer*, 284 F.3d 1234, 1236 (11th Cir. 2002). "The prisoner cannot simply pay the filing fee after being denied in forma pauperis status. He must pay the filing fee at the time he initiates the suit." *Id.* The only exception to this rule is when "the prisoner is under imminent danger of serious physical injury." 28 U.S.C. § 1915(g).

After reviewing the record and the magistrate judge's report, the court finds that Johnson is subject to the three strikes rule and that he isn't under imminent danger of serious physical injury. So the court **OVERRULES** Johnson's objection (doc. 8). The court **ADOPTS** the magistrate judge's report and **ACCEPTS** the recommendation. Consistent with that recommendation, the court will dismiss this case without prejudice under 28 U.S.C. § 1915(g). The court will also **DENY** Johnson's request for in forma pauperis status. (Doc. 5; see Doc 2).

By separate order, the court will carry out this ruling and close this case.

**Done** on December 21, 2022.

A handwritten signature in cursive script, reading "Corey L. Maze", written in black ink. The signature is positioned above a horizontal line.

**COREY L. MAZE**

UNITED STATES DISTRICT JUDGE