

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
WESTERN DIVISION**

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|------------------------------|---|---------------------------------------|
| ANTHONY LYNN JOHNSON, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | Case No. 7:22-cv-00892-RDP-SGC |
| |) | |
| TODD HALL, et al., |) | |
| |) | |
| Defendants. |) | |

MEMORANDUM OPINION AND ORDER


On November 10, 2022, the Magistrate Judge entered a Report and Recommendation recommending the court dismiss this action, filed by Plaintiff Anthony Lynn Johnson, pursuant to the three strikes provision of 28 U.S.C. § 1915(g). (Doc. 14). Johnson objected to the Report and Recommendation, stating he did not understand he was required to pay the filing fee at the time he initiated this lawsuit and requesting 90 days to pay the fee. (Doc. 16). However, as the Eleventh Circuit has held, 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 arises when “the prisoner is under imminent danger of serious physical injury.” 28 U.S.C. § 1915(g).

After careful consideration of the record in this case and the Magistrate Judge’s Report and Recommendation, Johnson’s objection is **OVERRULED**. (Doc. 16). The court **ADOPTS** the Magistrate Judge’s Report and **ACCEPTS** the Recommendation. (Doc. 14). Consistent with that

recommendation, Johnson's application to proceed *in forma pauperis* is **DENIED** (Doc. 2), and this action is due to be dismissed without prejudice under 28 U.S.C. § 1915(g).

A separate order will be entered.

DONE and **ORDERED** this December 8, 2022.



R. DAVID PROCTOR
UNITED STATES DISTRICT JUDGE