

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

<p>JEROME L. GRIMES, Inmate #2022-0659,</p>	<p>Plaintiff,</p>
<p>v.</p>	
<p>ENTERPRISE RENT-A-CAR COMPANY OF LOS ANGELES, LLC,</p>	<p>Defendant.</p>

Case No.: 3:22-cv-00657-RSH-KSC

ORDER:

**DENYING MOTION TO PROCEED
IN FORMA PAUPERIS AS
BARRED BY 28 U.S.C. § 1915(g)
[ECF No. 2]; and
DISMISSING CIVIL ACTION
WITHOUT PREJUDICE FOR
FAILURE TO PAY FILING FEE 28
U.S.C. § 1914(a) REQUIRES**

Plaintiff Jerome L. Grimes is a pretrial detainee at the Douglas County Jail in Castle Rock, Colorado, who filed a pro se complaint against Enterprise Rent-a-Car Company of Los Angeles, LLC, asserting what the Court interprets as claims of negligence, negligent supervision, breach of contract, false imprisonment, and intentional infliction of emotional distress. *See* Compl., ECF No. 1 at 1–3. Grimes has not paid the civil filing fee required under 28 U.S.C. § 1914(a). Instead, he asks this Court to waive the filing fees and costs by filing a Motion to Proceed *In Forma Pauperis* (“IFP”), ECF No. 2. This is but one of

1 hundreds of civil actions Grimes has filed in multiple federal district courts across the
2 country dating back to 1986. Like many of those courts, this Court denies Grimes the
3 privilege of IFP status and dismisses his case without prejudice for the reasons explained
4 in this Order.

5 **I. Motion to Proceed IFP**

6 **A. Standard of Review**

7 “All persons, not just prisoners, may seek IFP status.” *Moore v. Maricopa Cnty.*
8 *Sheriff’s Office*, 657 F.3d 890, 892 (9th Cir. 2011). Prisoners like Grimes, however, “face
9 an additional hurdle.” *Id.*

10 Because frivolous prisoner lawsuits rose to a “disproportionate share of federal
11 filings[,]” Congress passed the Prison Litigation Reform Act of 1995 (“PLRA”), Pub. L.
12 No. 104-134 § 801, 110 Stat. 1321 (1996). *Coleman v. Tollefson*, 575 U.S. 532, 535 (2015)
13 (citations omitted). The objective of the PLRA was to “reduc[e] frivolous prisoner
14 litigation in federal court.” *Tierney v. Kupers*, 128 F.3d 1310, 1312 (9th Cir. 1997).

15 The PLRA not only requires prisoners to “pay the full amount of a filing fee” in
16 “monthly installments” or “increments”, but it also prohibits courts from granting a
17 prisoner the privilege of IFP status:

18 . . . if the prisoner has, on 3 or more prior occasions, while incarcerated or
19 detained in any facility, brought an action or appeal in a court of the United
20 States that was dismissed on the grounds that it is frivolous, malicious, or fails
21 to state a claim upon which relief can be granted, unless the prisoner is under
imminent danger of serious physical injury.

22 28 U.S.C. §§ 1915(a)(3)(b), 1915(g). Courts sometimes call this part of the PLRA the
23 “three strikes” rule. *Andrews v. King*, 398 F.3d 1113, 1116 n.1 (9th Cir. 2005). Under the
24 three strikes rule, “a prisoner with three strikes or more cannot proceed IFP.” *Id.*; *see*
25 *Andrews v. Cervantes*, 493 F.3d 1047, 1052 (9th Cir. 2007) (hereinafter “*Cervantes*”).

26 “Strikes are prior cases or appeals, brought while the plaintiff was a prisoner, which
27 were dismissed on the ground that they were frivolous, malicious, or failed to state a claim,”
28 *Andrews*, 398 F.3d at 1116 n.1 (internal quotations omitted), “even if the district court

1 styles such dismissal as a denial of the prisoner’s application to file the action without
2 prepayment of the full filing fee[.]” *O’Neal v. Price*, 531 F.3d 1146, 1153 (9th Cir. 2008).
3 When courts “review a dismissal to determine whether it counts as a strike, the style of the
4 dismissal or the procedural posture is immaterial. Instead, the central question is whether
5 the dismissal ‘rang the PLRA bells of frivolous, malicious, or failure to state a claim.’” *El-*
6 *Shaddai v. Zamora*, 833 F.3d 1036, 1042 (9th Cir. 2016) (quoting *Blakely v. Wards*, 738
7 F.3d 607, 615 (4th Cir. 2013)).

8 Once a prisoner accumulates three strikes, Section 1915(g) prohibits courts from
9 granting him IFP status for any other civil actions or appeals in federal court unless he
10 “makes a plausible allegation that [he] faced ‘imminent danger of serious physical injury’
11 at the time of filing.” *Cervantes*, 493 F.3d at 1051–52 (quoting 28 U.S.C. § 1915(g)).
12 “[T]he PLRA [also] requires a nexus between [any] alleged imminent danger and the
13 violations of law alleged in the prisoner’s complaint.” *Ray v. Lara*, 31 F.4th 692, 700 (9th
14 Cir. 2022). In other words, to qualify for an exception to the three strikes rule, a “prisoner
15 must allege imminent danger of serious physical injury that is both fairly traceable to
16 unlawful conduct alleged in his complaint and redressable by the court.” *Id.* at 701.

17 B. Discussion

18 Grimes’ allegations are not clear. As best the Court can understand, he seeks to hold
19 Enterprise Rent-a-Car Company of Los Angeles, LLC, liable because the company
20 allegedly did not extend his rental car contract and negligently (or falsely) reported to San
21 Diego Police that Grimes’ “loaner vehicle/rental car” was stolen and/or repossessed. *See*
22 ECF No. 1 at 2–3. Grimes claims Defendant’s alleged actions resulted in Grimes’ arrest
23 and “continuous imprisonment” in a Colorado jail. *Id.* at 4. Grimes demands \$160,000 in
24 damages based on Defendant’s alleged negligence and negligent supervision. *Id.* He also
25 possibly demands \$2,740 per day of his 83 days of imprisonment in the Douglas County
26 Jail for his “humiliation” and false imprisonment. *Id.* However, Grimes does not include
27 any “plausible allegations” to suggest he “faced ‘imminent danger of serious physical
28 injury’ at the time of filing.” *Cervantes*, 493 F.3d at 1055 (quoting 28 U.S.C. § 1915(g)).

1 Courts “may take notice of proceedings in other courts, both within and without the
2 federal judicial system, if those proceedings have a direct relation to matters at issue.” *Bias*
3 *v. Moynihan*, 508 F.3d 1212, 1225 (9th Cir. 2007) (quoting *Bennett v. Medtronic, Inc.*, 285
4 F.3d 801, 803 n.2 (9th Cir. 2002)); see *United States ex rel. Robinson Rancheria Citizens*
5 *Council v. Borneo, Inc.*, 971 F.2d 244, 248 (9th Cir. 1992). Therefore, this Court takes
6 judicial notice of federal docket proceedings available on the judiciary’s Public Access to
7 Court Electronic Records (“PACER”) and finds that Grimes, currently identified as
8 Douglas County Jail Inmate #2022-0659, has filed hundreds of civil actions in multiple
9 federal district courts across the country dating back to 1986.¹ Grimes in fact notes that he
10 filed several similar lawsuits in 2020.² See ECF No. 1 at 1.

11 These federal dockets show Grimes has been in and out of state and local custody
12 over the course of more than three decades. Due to his vexatious litigation, at least six
13 federal district courts have denied Grimes IFP status while incarcerated because of the
14 three strikes rule, including the Northern District of California, Western District of
15 Louisiana, Eastern District of Kentucky, Middle and Northern Districts of Florida, and in
16 the District of Maryland. See e.g., Order, *Grimes v. Files*, No. 3:17-cv-00464 (N.D. Fla.
17 Apr. 12, 2018), ECF No. 10 (adopting Report and Recommendation to deny Grimes’
18 amended motion to proceed IFP and dismissing civil action under 28 U.S.C. § 1915(g));
19 Order of Dismissal, *Grimes v. Roman*, No. 17-cv-03288 (N.D. Cal. July 19, 2017), ECF
20 No. 4 (“In 2003 alone, [Grimes’] failure to comply [with court orders granting leave to pay
21 the full filing fee and to state cognizable claims for relief] resulted in the dismissal of
22

23
24 ¹ See Admin. Office of U.S. Courts, *Case Locator*, PACER,
25 [https://pcl.uscourts.gov/pcl/pages/search/results/parties.jsf?sid=ceedf0627bde448e](https://pcl.uscourts.gov/pcl/pages/search/results/parties.jsf?sid=ceedf0627bde448ebc0a45d246b60ae5)
bc0a45d246b60ae5 (last visited July 27, 2022).

26 ² Defendants typically carry the initial burden to produce evidence demonstrating a
27 prisoner is not entitled to proceed IFP, but “in some instances, the district court docket may
28 be sufficient to show that a prior dismissal satisfies at least one on the criteria under
§ 1915(g) and therefore counts as a strike.” *Andrews*, 398 F.3d at 1119–20.

1 approximately thirty-six actions under § 1915(g).”); Mem. Op. and Order, *Grimes v.*
2 *Engram*, No. 8:17-cv-01480 (D. Md. June 5, 2017), ECF No. 6 at 2 (denying leave to
3 proceed IFP pursuant to 28 U.S.C. § 1915(g) and noting Grimes’ filing of “hundreds of
4 cases in the federal courts.”); Order, *Grimes v. Kelly*, No. 6:15-cv-02073 (M.D. Fla. Dec.
5 16, 2015), ECF No. 5 at 2 (“A review of PACER confirms that [Grimes] has filed hundreds
6 of actions in several district courts in the United States and has had three or more cases
7 dismissed for failure to state a claim or as frivolous.”); Order, *Grimes v. Medlock*, No. 6:15-
8 cv-00140 (E.D. Ky. Sept. 16, 2015), ECF No. 8 at 3 (denying Grimes leave to proceed IFP
9 pursuant to 28 U.S.C. § 1915(g) and noting “the federal judiciary’s on-line database
10 indicates that ‘Jerome L. Grimes’ has filed almost 500 civil rights suits in the federal court
11 system, mostly in California.”); Mem. Order, *Grimes v. Lewis*, No. 5:12-cv-03159 (W.D.
12 La. Mar. 13, 2013), ECF No. 16 at 1 (“Court records show that [Grimes] has filed more
13 tha[n] 350 complaints and appeals. Three or more of them have been dismissed as
14 frivolous.”); *Grimes v. Wan*, No. C 07-1726-CW, 2007 WL 1988530, at *1 (N.D. Cal. July
15 3, 2007) (citing Order of Dismissal, *Grimes v. Oakland Police Dept.*, No. 4:00-cv-1100
16 (N.D. Cal. May 18, 2000), ECF No. 4) (“On May 18, 2000, this Court informed Plaintiff
17 that while he is a prisoner, he generally is ineligible to proceed *in forma pauperis* in federal
18 court under the ‘three-strikes’ provisions of 28 U.S.C. § 1915(g).”).

19 While Grimes’ litigation history shows he has not been precluded or dissuaded from
20 filing hundreds of federal civil actions since he was first notified of his inability to further
21 proceed IFP while incarcerated absent any plausible claims of imminent danger, “[t]he
22 point of the PLRA, as its terms show, was to cabin not only abusive but also simply
23 meritless prisoner suits.” *Lomax v. Ortiz-Marquez*, 140 S. Ct. 1721, 1726 (2020).
24 Therefore, this Court joins the Northern District of California, Western District of
25 Louisiana, Eastern District of Kentucky, Middle and Northern Districts of Florida, and the
26 District of Maryland in finding that Plaintiff Jerome L. Grimes has, while incarcerated, had
27 far more than three prior civil actions dismissed on the grounds that they were frivolous,
28 malicious, or failed to state a claim upon which relief may be granted.

1 Some specific examples of “strikes” filed and dismissed while Grimes was in
2 custody of the California Medical Facility in Vacaville, California, and the Orange County
3 Corrections Department in Orlando, Florida, are:

4 (1) Orders, *Grimes v. Cal. Dept. of Corrections*, No. 2:00-cv-00668 (E.D. Cal.
5 Aug. 8, 2000), ECF No. 9 (adopting Report and Recommendation to dismiss action for
6 “fail[ing] to state a cognizable claim for relief” pursuant to 28 U.S.C. § 1915A(b) after
7 court granted IFP and leave to amend complaint);³

8 (2) Order, *Grimes v. CDC-CMF/Dept. of Mental Health*, No. 2:00-cv-00781
9 (E.D. Cal. Aug. 17, 2000), ECF No. 7 (adopting Report and Recommendation to dismiss
10 action pursuant to 28 U.S.C. § 1915A as frivolous and failing to state a claim after court
11 granted leave to amend complaint);

12 (3) Order, *Grimes v. Kelly*, No. 6:15-cv-01955 (M.D. Fla. Nov. 30, 2015), ECF
13 No. 3 (denying IFP and dismissing complaint “for fail[ing] to provide a . . . claim for
14 relief.”);

15 (4) Mem. Order, *Grimes v. Williams*, No. 1:15-cv-03848 (D. Md. Dec. 23, 2015),
16 ECF No. 3 (granting IFP and dismissing complaint for failing to state a claim for relief);
17 and

18 (5) Mem. Order, *Grimes v. Tate*, No. 1:15-cv-03849 (D. Md. Dec. 23, 2015), ECF
19 No. 3 (granting IFP and dismissing complaint for failing to state a claim for relief).

20 Because Grimes has accumulated, while incarcerated, far more than the three
21 “strikes” Section 1915(g) permits and he fails to make any “plausible allegations” that he
22 faced imminent danger of serious physical injury at the time he filed his Complaint, the
23 Court finds that he is not entitled to the privilege of IFP status in this civil action. *See*
24

25
26 ³ *See Harris v. Mangum*, 863 F.3d 1133, 1143 (9th Cir. 2017) (“[W]hen (1) a district court
27 dismisses a complaint on the ground that it fails to state a claim, (2) the court grants leave
28 to amend, and (3) the plaintiff then fails to file an amended complaint, the dismissal counts
as a strike under § 1915(g).”).

1 *Cervantes*, 493 F.3d at 1055; *Rodriguez v. Cook*, 169 F.3d 1176, 1180 (9th Cir. 1999)
2 (finding that 28 U.S.C. § 1915(g) “does not prevent all prisoners from accessing the courts;
3 it only precludes prisoners with a history of abusing the legal system from continuing to
4 abuse it while enjoying IFP status”); *see also Jefferson v. United States*, 277 F.2d 723, 725
5 (9th Cir. 1960) (“The right to proceed *in forma pauperis* is not an unqualified one It
6 is a privilege, rather than a right.”) (citation omitted).

7 **II. Conclusions and Orders**

8 For the reasons above, the Court:

9 1. **DENIES** Grimes’ Motion to Proceed IFP [ECF No. 2] as barred by 28 U.S.C.
10 § 1915(g);

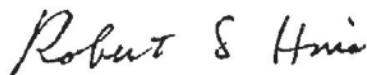
11 2. **DISMISSES** this civil action without prejudice based on Grimes’ failure to
12 pay the full statutory and administrative \$402 civil filing fee required by 28 U.S.C.
13 § 1914(a);

14 3. **CERTIFIES** that an IFP appeal from this Order would be frivolous and not
15 taken in good faith pursuant to 28 U.S.C. § 1915(a)(3); and

16 4. **DIRECTS** the Clerk of the Court to close the case.

17 **SO ORDERED.**

18
19 Dated: August 4, 2022.



20 Honorable Robert S. Huie
21 United States District Judge