IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION

WASEEM DAKER,	:	
	:	
Plaintiff,	:	
	:	**CIVIL NO. 5:17-CV-0025-CAR**
VS.	:	
	:	
GREGORY DOZIER, et al.,	:	
	:	
Defendants.		

ORDER

Plaintiff Waseem Daker, an inmate confined at Georgia State Prison in Reidsville, Georgia, has filed a *pro se* complaint in this Court seeking damages and injunctive relief under 42 U.S.C. § 1983 and the Religious Land Use and Institutionalized Persons Act ("RLUIPA") § 2 et seq., 42 U.S.C.A. § 2000cc et seq. Currently before the Court is Plaintiff's motion to proceed *in forma pauperis* ("IFP) under 28 U.S.C. § 1915 (Doc. 2). Plaintiff has also filed a motion to "expedite proceedings" (Doc. 3), several motions for preliminary injunction (Docs. 4, 5, 6); two motions for partial summary judgment (Docs. 13, 14); a motion for subpoena and/or preservation of evidence (Doc. 15); and a second motion to proceed *in forma pauperis* (Doc. 16).

I. Plaintiff's Motion to Proceed *in forma pauperis*

Plaintiff's motion to proceed IFP is made pursuant to 28 U.S.C. § 1915, which allows the district courts to authorize the commencement of a civil action without

prepayment of the normally-required fees upon a showing that the plaintiff is indigent and financially unable to pay the filing fee. Because Plaintiff is presently confined in a state prison, however, his ability to proceed IFP in federal court is also subject to the restrictions imposed by Prison Litigation Reform Act ("PLRA"). *See* 28 U.S.C. § 1915(g); *see also* 28 U.S.C. § 1915A. The PLRA specifically prohibits a prisoner from bringing a civil action in federal court *in forma pauperis*

> if [he] 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.

§ 1915(g). This is known as the "three strikes provision." *Rivera v. Allin*, 144 F.3d 719, 723 (11th Cir. 1998). Under § 1915(g), a prisoner incurs a "strike" any time he has a federal complaint or appeal dismissed on the grounds that it is frivolous or malicious or fails to state a claim. *Medberry v. Butler*, 185 F.3d 1189, 1193 (11th Cir. 1999). Once a prisoner incurs "three strikes" under this provision, he is no longer allowed to proceed *in forma pauperis*, and must prepay the entire filing fee before a federal court may consider his complaint or appeal, unless the prisoner demonstrates that he is in "imminent danger of serious physical injury." *Id.*

II. Applicability of the Three-Strikes Bar

In his Complaint, Plaintiff states that the three-strikes bar cannot be applied in this case because (1) it is unconstitutional and (2) he has not accumulated "three strikes."

A. Constitutional Challenge

Though often challenged, the PLRA's three-strikes bar has repeatedly been found to pass constitutional muster; and thus, despite Plaintiff's objection and present claim that the rule is unconstitutional, *see* Compl. at 28, the Court finds it both valid and properly considered in this case. *Medberry,* 185 F.3d at 1193. "Having to prepay his filing fee before the Court addresses the relative merits of his claims, unless he shows he is in imminent danger of serious physical injury, does not violate Plaintiff's rights." *Daker v. Bryson*, 6:16-CV-57, 2017 WL 1053082, at *6 (S.D. Ga. Mar. 20, 2017) (finding same arguments by Daker meritless). Plaintiff's objections to the constitutionality of § 1915(g) are thus found to be without merit. *Id.*

B. Plaintiff's Strikes

Plaintiff next contends that he does not have three strikes under § 1915(g). *See* Comp. at 28. A review of court records on the Federal Judiciary's Public Access to Court Electronic Records ("PACER") database nonetheless reveals that Plaintiff has filed multiple lawsuits in federal court and that at least three of his complaints or appeals have been dismissed and count as strikes under § 1915(g). Plaintiff has, in fact, repeatedly been barred from filing lawsuits within this Circuit under § 1915(g), and his status as a three-striker was recently confirmed by both this Court and the United States District Court for the Southern District of Georgia. *See Daker v. Owens,* 5:12-cv-459-CAR-MSH, ECF No. 388 (M.D. Ga. May 8, 2017); *Daker v. Bryson*, 6:16-CV-57, 2017 WL 242615, at *5

(S.D. Ga. Jan. 19, 2017), adopted by 6:16-CV-57, 2017 WL 1053082 (Mar. 20, 2017).

In *Daker v. Bryson*, supra, the Southern District explained its application of the three-strikes provision to Mr. Daker in detail, and it is worth repeating here in light of Plaintiff's misplaced reliance on the Eleventh Circuit's findings in *Daker v. Comm'r, Ga. Dep't. of Corr*., 820 F.3d 1278 (2016)[1] for the argument that he is not subject to the three-strikes provision:

> To be sure, a review of Plaintiff's history of filings reveals that he indeed has brought more than three civil actions or appeals which count as strikes under Section 1915(g). In reaching this conclusion, this Court has not utilized the same six (6) cases … counted as strikes [in *Daker v. Comm'r*]. Instead, the following cases, which do not include any of the cases the Eleventh Circuit found are not strikes, constitute strikes under Section 1915(g): 1) *Daker v. NBC*, et al., No. 15-330 (2d Cir. May 22, 2015), ECF No. 35 (noting Plaintiff's appeal "lacks an arguable basis either in law or in fact" and quoting *Nietzke*, 490 U.S. at 325 ("[A] complaint, containing as it does both factual allegations and legal conclusions, is frivolous where it lacks an arguable basis either in law or in fact."); 2) *Daker v. Warren*, No. 13-11630-B (11th Cir. Mar. 4, 2014) (appeal dismissed after finding it frivolous; 3) *Daker v. Mokwa*, 2:14cv395-UA-MRW (C.D. Cal. Feb. 4, 2014), ECF No. 2 (complaint dismissed as being frivolous, malicious, or failing to state a claim; 3) *Daker v. Robinson*, 1:12-cv-00118-RWS (N.D. Ga. Sept. 12, 2013) (Plaintiff's complaint dismissed based on his failure to follow a court order); and 4.) *Daker v. Dawes*, 1:12-cv-00119-RWS (N.D. Ga. Sept. 12, 2013) (same).
>
> The causes of action and appeals this Court cites to as being "strikes" were dismissed for being frivolous, malicious, or failing to state a claim for relief, and these causes of action and appeals were not dismissed on any other ground which failed to address the merits of Plaintiff's claims. This same review also reveals scores of other civil actions and appeals which were dismissed and/or count as strikes under Section 1915(g). *In re Daker*, No.

[1] In its order, "the Eleventh Circuit did not determine that Plaintiff is not a three-striker. Rather, it only determined that the … particular cases used by the Middle District of Georgia did not constitute strikes …." *Bryson*, 2017 WL 242615, at * 5 (citing *Daker*, 820 F.3d at 1286).

> 1:11-CV-1711-RWS, 2014 WL 2548135, at *2 (N.D. Ga. June 5, 2014) (summarizing Plaintiff's litigation history). This Court and other courts have noted that Plaintiff is a serial litigant with a significant history of filing frivolous lawsuits. *See e.g.*, *Daker v. Bryson*, No. 5:15-CV-88-CAR-CHW, 2015 WL 4973548, at *1 (M.D. Ga. Aug. 20, 2015) ("A review of court records on the Federal Judiciary's Public Access to Court Electronic Records ("PACER") database reveals that Plaintiff has filed more than one hundred federal civil actions and appeals since 1999."); *Daker v. Head*, et al., 6:14-cv-47 (S.D. Ga. Sept. 8, 2014), ECF Nos. 13, 14 (R&R and Order denying Plaintiff leave to proceed *in forma pauperis* due to three striker status); *Daker v. Warren*, No. 1:11-CV-1711-RWS, 2014 WL 806858, at *1 (N.D. Ga. Feb. 28, 2014) ("Waseem Daker is an extremely litigious state prisoner[.]").

Bryson, 2017 WL 242615 at *5.

This Court similarly confirmed Mr. Daker's status as a three-striker in another case just last month:

> Plaintiff has filed more than three actions or appeals that were dismissed on the statutorily-enumerated grounds prior to his seeking leave to appeal in forma pauperis in this case: *Daker v. Mokwa*, Order Denying Leave to Proceed IFP, ECF No. 2 in Case No. 2:14-cv-00395-UA-MRW (C.D. Cal. Feb. 4, 2014) (denying leave to proceed in forma pauperis and dismissing case after conducting screening under 28 U.S.C. § 1915(e)(2)(B) and finding claims were frivolous and failed to state a claim upon which relief may be granted); *Daker v. Warren*, Order Dismissing Appeal, Case No. 13-11630 (11th Cir. Mar. 4, 2014) (three-judge panel dismissal of appeal on grounds that appeal was frivolous); Order Dismissing Appeal, *Daker v. Warden*, Case No. 15-13148 (11th Cir. May 26, 2016) (three-judge panel dismissing appeal as frivolous); Order Dismissing Appeal, *Daker v. Commissioner*, Case No. 15-11266 (11th Cir. Oct. 7, 2016) (three-judge panel dismissing appeal as frivolous); Order Dismissing Appeal, *Daker v. Ferrero*, Case No. 15-13176 (11th Cir. Nov. 3, 2016) (three-judge panel dismissing appeal as frivolous); Order Dismissing Appeal, *Daker v. Governor*, Case No. 15-13179 (11th Cir. Dec. 19, 2016) (three-judge panel dismissing appeal as frivolous). Plaintiff has therefore accrued more than three "strikes" for purposes of § 1915(g) ….

Daker, 5:12-cv-459-CAR-MSH at ECF No. 388.

The Court thus finds that there is no doubt as to whether the three-strikes bar is applicable to Plaintiff in this case. *See also Daker v. Comm'r*, App. No. 17–12184-J, ECF No. 398 (11th Cir. May 24, 2017) (recent letter to Daker stating, "the 'three strikes provision' … is applicable to you"). Because the three strikes provision is applicable to Plaintiff, he may not proceed in this case *in forma pauperis* unless he is in "imminent danger of serious physical injury." *See* § 1915(g); *Medberry*, 185 F.3d at 1193.

III. Applicability of the Imminent Danger Exception

When a Plaintiff seeks to proceed *in forma pauperis* under the imminent danger exception, the district court must review the facts alleged in the complaint to determine whether an imminent danger, as contemplated by § 1915(g), potentially exists. *See also* 28 U.S.C. § 1915A(a).

A. Standard of Review

When reviewing a *pro se* complaint for this purpose, all factual allegations in the complaint must be accepted as true and all inferences must be made in the plaintiff's favor. *See Brown v. Johnson*, 387 F.3d 1344, 1347 (11th Cir. 2004); *Tannenbaum v. United States*, 148 F.3d 1262, 1263 (11th Cir. 1998). *Pro se* pleadings are also "held to a less stringent standard than pleadings drafted by attorneys," and a *pro se* compliant is thus "liberally construed." *Tannenbaum v. United States*, 148 F.3d 1262, 1263 (11th Cir. 1998) (per curiam). The district court, however, cannot allow a plaintiff proceed with claim based on frivolous, conclusory, or speculative allegations and may find that the

plaintiff is not in imminent danger after a review of the complaint. The court may also dismiss the complaint, or any part thereof, if it determines that the plaintiff's allegations fail to state a viable claim for relief. *See* § 1915A(b).

Therefore, to avoid the three-strikes bar, a prisoner must do more than merely state that he is in imminent danger. According to the Eleventh Circuit, the district court must determine "whether [the] complaint, as a whole, alleges imminent danger of serious physical injury." *Brown v. Johnson*, 387 F.3d 1344, 1350 (11th Cir.2004). "General allegations that are not grounded in specific facts [showing] that serious physical injury is imminent" are, however, "not sufficient to invoke the exception to § 1915(g)." *DuBois v. Buss*, 1:11-CV-220-MP-GRJ, 2011 WL 5593088, at *1 (N.D. Fla. Oct. 14, 2011), adopted by 1:11CV220-MP-GRJ, 2011 WL 5593076 (Nov. 17, 2011). Vague and unsupported claims of possible dangers likewise do not suffice. *See White v. State of Colorado*, 157 F.3d 1226, 1231 (10th Cir. 1998); *Taylor v. Allen*, No. 07–0794,2009 WL 1758801, at * 2 (S.D. Ala. June 16, 2009).

To satisfy the requirements of § 1915(g), the complaint must allege facts that describe "an ongoing serious physical injury, or of a pattern of misconduct evidencing the likelihood of imminent serious physical injury." *Sutton v. Dist. Attny's Ofc.*, 334 F. App'x 278, 279 (11th Cir. Aug. 22, 2009). Allegations showing that the plaintiff was previously in imminent danger, standing alone, are not sufficient; the danger feared must be both real and likely to occur (or reoccur) in the near future. *See id*. The exception to § 1915(g) is to

be applied only in "genuine emergencies," when "time is pressing," the "threat or prison condition is real and proximate," and the "potential consequence is serious physical injury." *Lewis v. Sullivan*, 279 F.3d 526, 531 (7th Cir. 2002).

B. Plaintiff's Claims

In this case, Plaintiff's *pro se* complaint includes multiple claims (against more than forty-two named defendants) based on events occurring at both Georgia State Prison ("GSP") and the Georgia Diagnostic and Classification Prison ("GDCP"). The Complaint does not name any individuals employed at GDCP as defendants. Plaintiff does, however, bring claims against the Georgia Department of Corrections and various "GDC" officials or employees. Plaintiff contends that the GDC's policy of restricting inmates' beard length and access to religious services and materials are unconstitutional and violate RLUIPA. The Complaint also includes claims against individuals employed at GSP. Plaintiff claims that he was denied a fair hearing during a disciplinary hearing in November of 2016; placed arbitrarily in Phase I of the Tier II program in December of 2016; and injured by GSP officers on January 10, 2017. Plaintiff further claims, presumably for the purpose of satisfying § 1915(g), that he is currently being denied medical care due to understaffing at GSP, is being required to shave (or be forcibly shaved) with broken and unsanitary clippers, is now housed with inmates who throw feces, and is being denied adequate sanitation and cleaning supplies.

Plaintiff has previously made the same (or substantially similar) claims against

various GDC and GSP defendants. In fact, at the time filing (on or about January 16, 2017), Plaintiff had two other active cases in this Court against many of the same defendants named as parties in this case: *Daker v. Owens*, 5:12-cv-459-CAR-MSH, ECF No. 258 (M.D.Ga. Sept. 14, 2016) ("*Daker* I"); *Daker v. Bryson*, 5:16-cv-0538-CAR-MSH (M.D. Ga. Dec. 7, 2016) ("*Daker* II"). In both of those cases, Plaintiff made allegations nearly identical to those alleged in this Complaint and claimed, as he does here, that: (1) the GDC's policies restricting inmates' beard length and access to religious services and/or materials violate First Amendment and RULIPA; (2) the policies and practices relevant to his assignment to Tier II confinement and the general conditions thereof violate due process and the Eighth Amendment; (3) the current customs and practices relevant to disciplinary hearings violate due process; and (4) the practice forcing prisoners to shave, or be forcibly shaven, with unsanitary, broken clippers violates the First and Eighth Amendments. *Id.* at ECF No. 538. In *Daker* II, Plaintiff additionally complained, as he does in this case, that the conditions of his confinement at GSP were unconstitutional and that GSP officers used chemical agents to forcibly shave him in January of 2017. *See id.*

Upon review of these pleadings, it is apparent that, when Plaintiff filed the present action in January of 2017, he knowingly brought claims that were essentially the same as those he was already actively litigating in, not one, but two other cases before this Court. These claims are thus properly **DISMISSED**, without prejudice, as duplicative. *Curtis v. Citibank*, 226 F.3d 133, 138 (2d Cir. 2000). *See Curtis v. Citibank*, 226 F.3d 133, 138 (2d

Cir. 2000) ("a district court may … dismiss a suit that is duplicative"); *Durbin, Inc. v. Jefferson Nat'l Bank*, 793 F.2d 1541, 1551 (11th Cir. 1986).

Furthermore, and in light of Plaintiff's well-known history of filing frivolous and duplicative claims, the Court further finds this Complaint both malicious and an abuse of the judicial process. *See Caballero v. Robinson*, 95 F.3d 49 (5th Cir. 1996) (unpublished) ("plainly duplicative" lawsuit was "subject to dismissal as malicious and abusive" even though plaintiff named additional defendants in later-filed case). His claims are thus also due to be **DISMISSED** as malicious and abusive pursuant 28 U.S.C. § 1915A(b)(1).

C. Allegations of Imminent Danger

As to any remaining claims, and for the purposes of § 1915(g), the Court further finds that Plaintiff's assertions of "imminent danger" are unwarranted.

1. *Damaged and Unsanitary Clippers*

Plaintiff first alleges that he is in imminent danger due to the GDC's custom of supplying prisoners with damaged, unsanitary clippers to enforce its shaving policy. Plaintiff argues that this could, hypothetically, cause Plaintiff to become infected with a disease such as HIV or Hepatitis. Compl. at 25. This claim is, again, one that Plaintiff has made before.[2] In fact, according to the Complaint, Plaintiff has faced this same

2 *See, e.g.*, *Daker v. Bryson*, 5:16-cv-0538-CAR-MSH, ECF No. 17 (M.D.Ga. June 8, 2017); *Daker v. Owens*, No.5:12-cv-459-CAR-MSH (M.D.Ga. Nov. 20, 2012); *Daker v. Dozier*, No. 5:17-cv-00025-CAR-MSH (M.D. Ga. Jan. 19, 2017). Similar claims have also been filed in at least one other federal district court in the State of Georgia. *See e.g. Daker v. Bryson*, 6:16-CV-57, 2017 WL 242615 (May 23, 2017).

"danger" since 2012,[3] and he does not now identify any presently occurring circumstance to suggest that this possible or potential danger is any more imminent now than it was in 2012. The Complaint thus fails to show that the danger posed by the use of these clippers warrants an exception to the three-strikes bar.

2. *Policy of Forced Shaving*

Plaintiff next maintains that he is in imminent danger of serious physical injury due to the practice of forcibly shaving inmates who refuse to do so voluntarily. *See* Comp. at 7, 24. In support of this claim, Plaintiff alleges that he was forcibly shaved at GDCP in 2012 and 2013. Compl. at 7. He does not allege to have suffered any injury on those occasions, however; and any discrete claims based on these events are time-barred by the relevant two-year statute of limitations as they occurred before April of 2014. *See Owens v. Okure*, 488 U.S. 235, 236 (1989); O.C.G.A. § 9-3-33 (1982).

More relevant here are Plaintiff allegations that he was "cut on some" occasions when forced to shave at GSP and was also in danger of suffering a serious physical injury when officers used a chemical agent to subdue him for a forced shave on January 10, 2017. The Court accepts these allegations as true. Nothing in the Complaint, however, suggests that the use of chemical agents (or any other extreme use of force) is a wide-spread practice or custom within the GDC - or even GSP; nor do the allegations suggest that another similar use of force is imminent. Just the opposite: As, stated above, Plaintiff alleges that

[3] *See* Comp. at 5-7; *see also Bryson*, 2017 WL 242615, at *5 (finding the same allegations by Daker insufficient to satisfy the imminent danger exception).

he has been forcibly shaved "numerous" times at GSP and only suffered minor injuries, a cut, "on some." There is no allegation of officers using chemical agents or excessive force in any of these prior forced shaves or of any wide-spread practice or pattern thereof.

The Complaint, furthermore, fails to show that the GDC's shaving policy and/or the practice of forced shave was the proximate cause of Plaintiff's injuries. His allegations instead suggest that it was Plaintiff's repeated failure to follow instructions, not the GDC's policies, that created the dangerous situation which led to his injuries. Thus, at most, Plaintiff's Complaint may have stated an Eight Amendment excessive force claim against the individual GSP Defendants personally involved in the incident. This, however, will not allow Plaintiff to escape the three-strikes bar. *See Brown v. City of Philadelphia*, CIV. 05-4160, 2009 WL 1011966, at *12 (E.D. Pa. Apr. 14, 2009) (prisoner cannot avoid the three-strikes bar if he is responsible for placing himself in danger); *Muhammad v. McDonough*, 3:06CV527-J-32TEM, 2006 WL 1640128, at *1 (M.D. Fla. June 9, 2006) (prisoner cannot create imminent danger to escape the three-strikes rule).

3. *Current Conditions of Confinement*

Finally, Plaintiff contends that he is now in imminent danger of serious physical injury at GSP because: (1) the understaffing and unavailability of an officer to escort Plaintiff to the orthopedist caused him to miss multiple appointments in 2016; (2) he was placed on "yard restriction" (for at least 90-days) in November of 2016 and thus denied

outdoor recreation by multiple GSP officers[4]; and (3) he lives with inmates who throw feces, has to wait for hours before the feces is cleaned, and GSP defendants[5] have ignored his complaints about the unsanitary conditions and requests for cleaning supplies.

Plaintiff's allegations, when read in his favor, may be sufficient to support a claim under § 1983. They do not, however, demonstrate that Plaintiff is presently in danger of serious physical injury, the existence of any genuine emergency, or that time is otherwise pressing so as to warrant an exception to the three-strikes rule. *See Lewis*, 279 F.3d at 531. There is, for example, nothing in Plaintiff's allegations which suggests that he will suffer serious physical injury if he does not see an orthopedist as soon as possible. Nor is there any suggestion that Plaintiff will soon suffer a serious physical injury if he is not promptly allowed yard privileges, moved to a unit where there are no inmates who throw feces, and provided with cleaning supplies. *See Brown v. City of Philadelphia*, 2009 WL 1416709, at *2 (3rd Cir. May 21, 2009) (unpublished) (allegation that prison guards "placed feces and urine in his cell, … [and] denied him medical treatment" did not satisfy § 1915(g)); *Pettus v. Oakes*, 09-CV-6263CJS, 2009 WL 2392025, at *2 (W.D.N.Y. Aug. 3, 2009) ("allegations regarding feces and urine having been thrown at [plaintiff]" are insufficient to "implicate an imminent danger of serious harm, such that plaintiff would be allowed to bring them in an action allowed under the exception to 28 U.S.C. § 1915(g).").

Furthermore, even if Plaintiff's allegations could support a finding of imminent

[4] As to this claim, Plaintiff specifically identifies Defendants Mendel, Williams, Moye, Anderson, Jones, Mikell, and Brooks.

[5] Defendants Allen, Bobbit, Hutcheson, and Anderson, Brooks, and Williams.

danger, these final claims arise only from Plaintiff's confinement at GSP and are unrelated to Plaintiff's claims against the GDC Defendants. Unrelated claims against different defendants must be brought in separate lawsuits. *See* Fed. R. Civ. P. 20(a)(2)(A)-(B); *Owens v. Hinsley*, 635 F.3d 950, 952 (7th Cir. 2011). Plaintiff has, in fact, been previously advised that any claims arising from the conditions of his confinement at GSP should be brought in a separate suit and filed in the Southern District of Georgia, i.e., the appropriate venue for these claims. *See, e.g.*, *Daker I*, ECF No. 234 at 17:15-18:4 (advising Plaintiff that any claims regarding his treatment at the GPS would have to be raised in a new action in the Southern District, where venue would be appropriate); Daker II, ECF No. 17 at 4, 11 (finding that *Daker* had, despite prior warnings, again mis-joined claims and transferring those claims to appropriate venue).

The Court thus finds that these claims are, in the alternative, due to be **DISMISSED** without prejudice, not only because they are presently mis-joined, and the Middle District is not the proper venue,[6] *see* Fed. R. Civ. P. 21; *DirecTV, Inc. v. Leto*, 467 F.3d 842, 844–45 (3d Cir. 2006), but also because it is apparent that Plaintiff knowingly, and in bad faith, mis-joined these claims for the sole purpose of attempting to avoid three-strikes bar in a malicious abuse of the judicial process. What is more, Plaintiff still has active claims against the GSP defendants, which are the same or similar to those identified here, in the Southern District, *Daker v. Bryson*, 6:17-cv-0079-JRH-RSB (S.D. Ga. June 12, 2017).

[6] These claims arose from events occurring in Reidsville, Georgia, and should thus be heard in the Southern District of Georgia. *See* 28 U.S.C. § 1391(b).

IV. Conclusion

Because his Complaint fails to demonstrate the existence of an imminent danger of serious physical injury, Plaintiff's motion for leave to proceed IFP (ECF Nos. 2 & 16) is hereby **DENIED**; and, for all of those reasons discussed above, Plaintiff's Complaint is now **DISMISSED** without prejudice.[7] Plaintiff's motions to "expedite proceedings" (Doc. 3), for preliminary injunction (Docs. 4, 5, 6); for partial summary judgment (Docs. 13, 14); and for subpoena and preservation of evidence (Doc. 15) are **DENIED** as **MOOT**.

SO ORDERED, this 18th day of June, 2017.

S/ C. Ashley Royal
C. ASHLEY ROYAL, SENIOR JUDGE
UNITED STATES DISTRICT COURT

[7] When the district court denies a prisoner leave to proceed *in forma pauperis* pursuant to § 1915(g), the proper procedure is for the court to then dismiss the complaint without prejudice. *Dupree v. Palmer*, 284 F.3d 1234, 1236 (11th Cir. 2002). *See also Simmons v. Zloch*, 148 F. App'x 921, 922 (11th Cir. 2005) (citing to *Dupree* in affirming denial of *in forma pauperis* motion and dismissing complaint under § 1915(g)).