

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

JOE DANIEL HOLT, JR., #240463,)	
)	
Plaintiff,)	
)	
vs.)	CIVIL ACTION NO. 2:09cv426-WHA
)	
LOUIS BOYD, Warden, et al.,)	(WO)
)	
Defendants.)	

ORDER

This case is before the court on the Order and Recommendation of the Magistrate Judge (Doc. #3), entered on May 29, 2009, and the Plaintiff’s Objection to Recommendation (Doc. #4), filed on June 5, 2009.

The Magistrate Judge recommends dismissal of this case under 28 U.S.C. § 1915(g), the “three strikes” provision of § 1915.

Plaintiff argues that the court has obtained “wrong” information about the previous cases it relies on to find his complaint barred under § 1915(g). He maintains that his previous complaints were cognizable under federal law but were denied because he was proceeding *pro se* and was granted IFP status. Plaintiff does not deny that the civil actions and/or appeals relied on by the court to find his current complaint barred under 28 U.S.C. § 1915(g) were, in fact, dismissed under 28 U.S.C. § 1915(e). Further, he concedes that he presents no claims in the instant complaint which entitle him to avoid the bar of § 1915(g) because they do not allege nor in any way indicate that he was “under imminent danger of serious physical injury” at the time he filed this action, as is required to meet the imminent danger exception to the application of 28

U.S.C. § 1915(g). The objection does not alter the findings in the Recommendation.

Accordingly, Plaintiff's objection is overruled, the Recommendation is ADOPTED, and it is hereby

ORDERED that this case is DISMISSED without prejudice, due to Plaintiff's failure to pay the full filing fee upon the initiation of this action.

DONE this 22nd day June, 2009.

/s/ W. Harold Albritton

W. HAROLD ALBRITTON

SENIOR UNITED STATES DISTRICT JUDGE