

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

JAMES BROADHEAD,)	
)	
Plaintiff,)	
)	
v.)	2:19-cv-01097-RDP-JHE
)	
OFFICER A MARKNS, et al.,)	
)	
Defendants.)	

MEMORANDUM OPINION

On July 22, 2019, the Magistrate Judge entered a report recommending that this action be dismissed without prejudice pursuant to the three-strikes provisions of the Prison Litigation Reform Act. Plaintiff responded to the report and recommendation on August 1, 2019. (Doc. 3). His response appears to allege that in the past prison officials interfered with his ability to adequately prosecute his lawsuits by taking property from his cell, that he is now able to keep his legal materials in his cell, but that he is unable to pay the filing fee. (*Id.*). He asks the court to show “impartiality” and allow this action to proceed. (*Id.* at 2).

Plaintiff’s response is without merit. The Prison Litigation Reform Act prohibits this court from approving an *in forma pauperis* application by a prisoner who has had three or more cases dismissed as frivolous, malicious, or for failing to state a claim. 28 U.S.C. § 1915(g). The only exception to this prohibition is where a prisoner demonstrates he is under imminent danger of serious physical injury. However, neither Plaintiff’s complaint, nor his objections to the report and recommendation, demonstrate he is under imminent danger of serious physical injury. Accordingly, because Plaintiff has had at least three prior cases dismissed as meritless, and because he failed to pay the filing fee at the time he initiated this action, this matter is due to be dismissed without prejudice.

Having carefully reviewed and considered *de novo* all the materials in the court file, including the report and recommendation, the Magistrate Judge's report is hereby **ADOPTED** and the recommendation is **ACCEPTED**. This action is therefore due to be dismissed without prejudice pursuant to 28 U.S.C. § 1915(g). A final judgment will be entered.

DONE and **ORDERED** this August 14, 2019.



R. DAVID PROCTOR
UNITED STATES DISTRICT JUDGE