

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

ANTHONY LYNN JOHNSON,)	
)	
Plaintiff,)	
)	
v.)	Case No. 7:22-cv-00930-ACA-SGC
)	
TODD HALL, <i>et al.</i> ,)	
)	
Defendants.)	

MEMORANDUM OPINION

On November 15, 2022, the magistrate judge entered a report 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). Mr. Johnson objects on the ground that he did not understand he was required to pay the filing fee at the time he initiated this lawsuit and requests ninety days to pay the fee. (Doc. 15). However, the Eleventh Circuit has held that 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.* (emphasis in original). 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, the court **OVERRULES** Mr. Johnson's objection. (Doc. 15). The court **ADOPTS** the magistrate judge's report and **ACCEPTS** the recommendation. (Doc. 14). Consistent with that recommendation, the court **WILL DISMISS** this action **WITHOUT PREJUDICE** under 28 U.S.C. § 1915(g).

The court will enter a separate final order consistent with this opinion.

DONE and **ORDERED** this December 13, 2022.



ANNEMARIE CARNEY AXON
UNITED STATES DISTRICT JUDGE