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6 **IN THE UNITED STATES DISTRICT COURT**  
7 **FOR THE DISTRICT OF ARIZONA**  
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9 Alfred E. Caraffa,  
10 Plaintiff,  
11 v.  
12 State of Arizona, et al.,  
13 Defendants.  
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No. CV 20-02158-PHX-MTL (ESW)

**ORDER**

15 On November 9, 2020, Plaintiff Alfred E. Caraffa,<sup>1</sup> who is confined in a Maricopa  
16 County Jail, filed a pro se civil rights Complaint (Doc. 1) and an Application to Proceed In  
17 Forma Pauperis (Doc. 2). Pursuant to 28 U.S.C. § 1915(g), the Court will deny the  
18 Application to Proceed and will dismiss the Complaint and this action without prejudice.

19 **I. Dismissal Pursuant to 28 U.S.C. § 1915(g)**

20 A prisoner may not bring a civil action or appeal a civil judgment in forma pauperis  
21 (“IFP”) if:

22 the prisoner has, on 3 or more prior occasions, while  
23 incarcerated or detained in any facility, brought an action or  
24 appeal in a court of the United States that was dismissed on the  
25 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.

26 28 U.S.C. § 1915(g).  
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<sup>1</sup> Plaintiff is housed in a male facility but uses feminine pronouns to refer to herself. The Court will do the same.

1            “[Section] 1915(g) should be used to deny a prisoner’s *IFP* status only when, after  
2 careful evaluation of the order dismissing an action, and other relevant information, the  
3 district court determines that the action was dismissed because it was frivolous, malicious  
4 or failed to state a claim.” *Andrews v. King*, 398 F.3d 1113, 1121 (9th Cir. 2005). “In  
5 some instances, the district court docket records may be sufficient to show that a prior  
6 dismissal satisfies at least one of the criteria under § 1915(g) and therefore counts as a  
7 strike.” *Id.* at 1120.

8            At least three of Plaintiff’s prior actions qualify as “strikes” under § 1915(g):

- 9            (1) *Caraffa v. Maricopa County Sheriff’s Department*, CV 20-  
10 00013-PHX-MTL (ESW) (Mar. 3, 2020 Order and Judgment  
11 dismissing Second Amended Complaint for failure to state a  
12 claim);
- 12            (2) *Caraffa v. Maricopa County Sheriff’s Office*, CV 20-00227-  
13 PHX-MTL (ESW) (Mar. 30, 2020 Order and Judgment  
14 dismissing Second Amended Complaint for failure to state a  
15 claim);
- 15            (3) *Caraffa v. CHS*, CV 20-00256-PHX-MTL (ESW) (Feb. 10,  
16 2020 Order dismissing Complaint for failure to state a claim,  
17 with leave to amend, and Apr. 13, 2020 Judgment for failure to  
18 file amended complaint).

18            Therefore, Plaintiff may not bring a civil action without complete prepayment of the  
19 \$350.00 filing fee and \$50.00 administrative fee unless she is in imminent danger of serious  
20 physical injury. 28 U.S.C. § 1915(g).

## 21    **II. Imminent Danger**

22            To meet the “imminent danger” requirement, the “threat or prison condition [must  
23 be] real and proximate,” *Ciarpaglini v. Saini*, 352 F.3d 328, 330 (7th Cir. 2003) (quoting  
24 *Lewis v. Sullivan*, 279 F.3d 526, 531 (7th Cir. 2002)), and the allegations must be “specific  
25 or credible.” *Kinnell v. Graves*, 265 F.3d 1125, 1128 (10th Cir. 2001). “[T]he exception  
26 applies if the complaint makes a plausible allegation that the prisoner faced ‘imminent  
27 danger of serious physical injury’ at the time of filing.” *Andrews v. Cervantes*, 493 F.3d  
28 1047, 1055 (9th Cir. 2007) (quoting § 1915(g)). Moreover, although a court considering a

1 motion to proceed in forma pauperis, “should not attempt to evaluate the seriousness of a  
2 plaintiff’s claims[, . . . ] it has never been the rule that courts must blindly accept a  
3 prisoner’s allegations of imminent danger.” *Taylor v. Watkins*, 623 F.3d 483, 485 (7th Cir.  
4 2010).

5 Plaintiff’s allegations in her six-count Complaint do not plausibly suggest she is in  
6 imminent danger of serious physical injury. Thus, the Court will deny Plaintiff’s  
7 Application to Proceed In Forma Pauperis and will dismiss Plaintiff’s Complaint and this  
8 action, without prejudice, pursuant to § 1915(g). If Plaintiff wants to reassert these claims  
9 in the future, she must prepay the entire \$400.00 filing and administrative fees when she  
10 files her action.

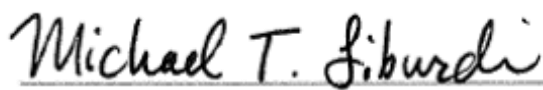
11 **IT IS ORDERED:**

12 (1) Plaintiff’s Application to Proceed In Forma Pauperis (Doc. 2) is **denied**.

13 (2) Plaintiff’s Complaint (Doc. 1) and this action are **dismissed without**  
14 **prejudice**, pursuant to 28 U.S.C. § 1915(g). If Plaintiff wishes to reassert these claims in  
15 the future, she must prepay the entire \$400.00 filing and administrative fees when she files  
16 her action.

17 (3) The Clerk of Court must enter judgment accordingly and close this case.

18 Dated this 19th day of November, 2020.

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22 Michael T. Liburdi  
23 United States District Judge  
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