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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 Maricopa County, et al.,

13 Defendants.
14

No. CV 20-02159-PHX-MTL (ESW)

ORDER

15 On November 9, 2020, Plaintiff Alfred E. Caraffa,¹ 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).
27

28 ¹ 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
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
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
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 three-count Complaint do not plausibly suggest she is
6 in 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.

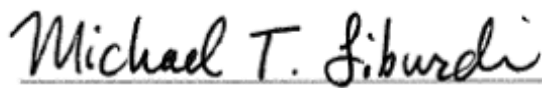
11 **IT IS ORDERED:**

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 13th day of November, 2020.

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21 Michael T. Liburdi
22 United States District Judge
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