

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
JONESBORO DIVISION**

RUBBY JAMES GRAY

PLAINTIFF

v.

No: 3:17-cv-00323 BSM-PSH

KEITH BOWERS, et al.

DEFENDANTS

ORDER

Plaintiff Rubby James Gray, an inmate at the Craighead County Detention Center, filed a complaint pursuant to 42 U.S.C. § 1983 on December 5, 2017 (Doc. No. 1). He did not file the required filing and administrative fees or file an application to proceed *in forma pauperis*. The Court entered an Order on December 6, 2017, noting that Gray is a “three-striker” under the three-strikes provision of the Prison Litigation Reform Act (“PLRA”) (Doc. No. 2).¹ As a three-striker, Gray must show that he was in imminent danger of serious physical injury at the time he filed the complaint. 28 U.S.C. § 1915(g); *Ashley v. Dilworth*, 147 F.3d 715, 717 (8th Cir. 1998). The Eighth Circuit has clarified that the imminent danger exception applies only when there is a genuine risk of an “ongoing serious physical injury.” *Martin v. Shelton*, 319 F.3d 1048, 1050 (8th Cir. 2003).

The Court ordered Gray to either pay the \$400.00 filing and administrative fees or return a completed IFP application, including an accompanying calculation sheet and certificate signed by an authorized official, within 30 days. The Court also ordered Gray to amend his complaint within thirty days from the date of this Order to describe why he believes he is currently in danger of

¹ The following cases filed by Gray were dismissed for failure to state a claim: *Gray v. Kennemore*, No. 3:01-cv-00266-BRW; *Gray v. Bristrow*, 3:17-cv-00279-JLH; *Gray v. Black*, No. 3:17-cv-00293-BSM.

imminent serious physical injury. Gray had alleged he was exposed to mold and was having breathing troubles and headaches. Doc. No. 1 at 3-4. Gray filed an amended complaint and a letter on December 13, 2017 (Doc. Nos. 3 & 4). He continues to allege he has migraines and breathing problems but provides no details to support his claims. Gray also filed addendums to his amended complaint (Doc. Nos. 5 & 6) that raise entirely new claims (theft of personal property, mail tampering, and a complaint that the jail has been too cold recently). Finally, Gray indicates that he submitted an IFP application, but the Court has not received one.

The Court will allow Gray one more opportunity to file an amended complaint with sufficient information to determine if Gray's claims meet the imminent-danger exception to the PLRA's three-strikes rule. Gray must amend his complaint within thirty days from the date of this Order to state sufficient facts to support his claim that he is in danger of imminent serious physical injury. Gray's amended complaint should be limited to those conditions that put him in danger of serious physical injury. Further, Gray should explain why he believes he has been exposed to black mold, how long he has been exposed to black mold, and whether the Defendants were aware of such exposure. Finally, Gray must return a completed IFP application, including an accompanying calculation sheet and certificate signed by an authorized official, within 30 days of the date of this order. The Clerk of Court is directed to enclose an IFP application along with a copy of this Order.

In the event Gray fails to timely comply with this Order, the Court will recommend this case be dismissed.

IT IS SO ORDERED this 8th day of January, 2018.


UNITED STATES MAGISTRATE JUDGE