



1           Moreover, the federal in forma pauperis statute includes a limitation on the number of  
2 actions in which a prisoner can proceed in forma pauperis. Known as the “three strikes” rule, 28  
3 U.S.C. § 1915(g)<sup>1</sup> provides:

4                         In no event shall a prisoner bring a civil action or appeal a judgment  
5 in a civil action or proceeding under [§ 1915] if the prisoner has, on  
6 3 or more prior occasions, while incarcerated or detained in any  
7 facility, brought an action or appeal in a court of the United States  
8 that was dismissed on the grounds that it is frivolous, malicious, or  
9 fails to state a claim upon which relief may be granted, unless the  
10 prisoner is under imminent danger of serious physical injury.

11           In this regard, the court’s records reveal that in a prior action it was determined that  
12 plaintiff had on 3 or more prior occasions while incarcerated brought actions dismissed as  
13 frivolous, malicious, or as failing to state a claim upon which relief may be granted. See Taylor  
14 v. Chiu, No. 1:11-cv-1374 AWI JLT, 2012 WL 394105, at \*1 (E.D. Cal. Feb. 6, 2012) (“After  
15 review of Plaintiff’s application to proceed in forma pauperis, the Court determined that Plaintiff  
16 had accrued ‘three strikes’ pursuant to 29 U.S.C. 1915(g)”)<sup>2</sup> Therefore, plaintiff is precluded

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17 <sup>1</sup> Title 28 U.S.C. § 1915(g) applies to the complaint filed in this action even though it is not a  
18 civil rights complaint challenging the conditions of petitioner’s confinement. United States v.  
19 Jones, 215 F.3d 467, 469 (4th Cir. 2000) (“Although we are aware that Congress primarily  
20 targeted prisoner civil rights cases in enacting the filing fee provision of the PLRA . . . the text of  
21 the Act is not limited to such actions.); see also Lefkowitz v. Citi-Equity Group, Inc., 146 F.3d  
22 609, 612 (8th Cir. 1998) (“under the plain language of the statute, the phrase ‘civil action or  
23 appeal’ is not limited to challenges to conditions of confinement”); Lopez v. California Men’s  
24 Colony, No. CV 12-10941 DMG (PJW), 2013 WL 4763646, at \*3 (C.D. Cal. Aug. 30, 2013)  
25 (“Plaintiff is cautioned that, if he accumulates three strikes, he will be barred from bringing any  
26 further actions in federal court without prepaying the filing fee, unless he can establish that he is  
27 in imminent danger of serious harm”); Vandenburgh v. Solano County, No. CV-08-863 EFS,  
28 2008 WL 5412359, at \*3 (E.D. Cal. Dec. 30, 2008) (“Pursuant to 28 U.S.C. § 1915(g), a prisoner  
who brings three (3) or more civil actions or appeals that are dismissed because they are legally  
frivolous, malicious, or fail to state a claim, will be precluded from bringing any other civil action  
or appeal in forma pauperis unless the prisoner is under imminent danger of serious physical  
injury.”).

<sup>2</sup> “Of the cases the Court previously determined were ‘strikes’ or actions dismissed as frivolous  
or for failure to state a claim, the Court cited: (1) Bettis v. Paulson, CV 09-1544-UA-CT (C.D.  
Cal.); (2) Bettis v. Blackstone, 1:08-cv-01561-AWI-GSA (E.D. Cal.); and (3) Taylor v. U.S.  
Department of State, 1:10-cv1892-LJO-JLT (E.D. Cal.)” Taylor v. Chiu, No.1:11-cv-1374 AWI  
JLT, 2012 WL 394105, at \*1 (E.D. Cal. Feb. 6, 2012). The undersigned has reviewed the cases  
cited above and finds that they were dismissed because they were frivolous, malicious or failed to  
state a claim, as was too the case of Bettis v. Tillie-Moore, No. 2:09-cv-0788 UA CT (C.D. Cal).

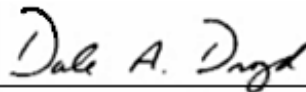
1 from proceeding in forma pauperis unless he can demonstrate that he is under imminent danger of  
2 serious physical harm. See 28 U.S.C. § 1915(g).

3 The court has reviewed plaintiff's complaint and finds that he has not alleged that he is in  
4 imminent danger of serious physical harm. In this regard, plaintiff's complaint alleges that the  
5 grantor of a trust created by plaintiff has taken "possession, custody, and control of [an] eight  
6 hundred and fifty billion dollar instrument" belonging to plaintiff. (Compl. (Dkt. No. 1) at 4.)  
7 Although the complaint also makes vague and conclusory allegations concerning plaintiff being  
8 in "imminent danger" of contracting Valley Fever, "[e]ven a liberal reading of the allegations  
9 throughout the complaint cannot transform their true nature into allegations concerning imminent  
10 danger of contracting Valley Fever, and the Court finds the inclusion of this vague allegation to  
11 be a transparent attempt to avoid paying the filing fee after suffering three strikes under §  
12 1915(g)." Taylor v. Chiu, No.1:11-cv-1374 AWI JLT, 2012 WL 394105, at \*2 (E.D. Cal. Feb. 6,  
13 2012).

14 Therefore, plaintiff may only proceed with this action if he pays the required filing fees in  
15 full. Accordingly, the court will grant plaintiff thirty days leave to pay the filing fee. Plaintiff is  
16 cautioned that failure to pay the filing fee in full will result in the dismissal of this action.

17 For the reasons set forth above, IT IS HEREBY ORDERED that plaintiff shall pay the  
18 required filing fee in full within thirty days of the date of this order or this action will be  
19 dismissed without prejudice.

20 Dated: May 18, 2015

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23 DALE A. DROZD  
24 UNITED STATES MAGISTRATE JUDGE

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