

**FILED**

**MAR 24 2009**

**NANCY MAYER WHITTINGTON, CLERK  
U.S. DISTRICT COURT**

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

WESLEY CARROLL, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 DEPARTMENT OF THE NAVY, )  
 )  
 Defendant. )


Civil Action No. 09-0077 (UNA)

**MEMORANDUM OPINION**

Under the Prison Litigation Reform Act (“PLRA”), a prisoner may not proceed *in forma pauperis* if while incarcerated he has filed at least three prior cases that were dismissed as frivolous, malicious, or for failure to state a claim. 28 U.S.C. § 1915(g); *see Ibrahim v. District of Columbia*, 463 F.3d 3, 6 (D.C. Cir. 2006); *Ibrahim v. District of Columbia*, 208 F.3d 1032, 1033 (D.C. Cir. 2000); *Smith v. District of Columbia*, 182 F.3d 25, 29 (D.C. Cir. 1999). There is an exception for a prisoner who shows that he “is under imminent danger of serious physical injury” at the time he files suit. 28 U.S.C. § 1915(g). Plaintiff is not eligible to proceed *in forma pauperis* because he has accumulated more than “three strikes” for purposes of the PLRA. *See, e.g., Carroll v. Clerk of Court*, No. 08-1684, 2009 WL 112546, at \*1 (W.D. Pa. Jan. 15, 2009) (denying motion for leave to proceed *in forma pauperis* under 28 U.S.C. § 1915(g) and dismissing complaint without prejudice to re-filing after payment of the filing fee). Moreover, review of the complaint reveals that plaintiff brings this action against the Department of the Navy under the Freedom of Information Act, *see* 5 U.S.C. § 552, and nothing in the pleading suggests that plaintiff is in imminent danger of serious physical injury. Absent such an

allegation, plaintiff does not overcome the bar imposed by Section 1915(g).

Accordingly, the Court denies plaintiff's motion to proceed *in forma pauperis* and dismisses this action under 28 U.S.C. § 1915(g).

  
United States District Judge

DATE: *March 23, 2009*