




2013 WL 3652377, at \*1 (N.D. Tex. July 15, 2013) (imposing sanctions by, among other things, requiring Johnson to “obtain[] leave of the Court through a proper motion for leave to file [any] new lawsuit or [habeas] petition”). Long ago he accumulated three strikes. *See Johnson v. Whatley*, No. 02-40760, 73 F. App’x 79 (5th Cir. 2003) (per curiam) (dismissing appeal as frivolous, and stating that Johnson has at least three strikes under 28 U.S.C. § 1915(g), and thus is “BARRED from bringing any civil action or appeal IFP while he is incarcerated or detained in any facility unless he shows that he is under imminent danger of serious physical injury”); *Johnson v. Tepper*, No. 1:02-CV-0656 (W.D. Tex. Oct. 11, 2002) (dismissing complaint as frivolous pursuant to 28 U.S.C. § 1915(e)), *appeal dismissed*, 65 F. App’x 509 (5th Cir. 2003) (per curiam) (dismissing appeal as frivolous and issuing a “sanctions warning” as the dismissal of the complaint and appeal are two strikes under 28 U.S.C. § 1915(g)); *see also Johnson v. Lindsay*, No. 3:16-CV-1345, 2016 WL 3752972, at \*2 (N.D. Tex. May 17, 2016) (“As early as 2004, Plaintiff was barred from proceeding *in forma pauperis* as to civil rights complaints absent the requisite allegation that he is subject to imminent danger of serious physical injury.”), *report and recommendation adopted*, No. 3:16-CV-1345, 2016 WL 3748417 (N.D. Tex. July 11, 2016).

Under these circumstances, plaintiff may proceed *in forma pauperis* only if he is “under imminent danger of serious physical injury.” 28 U.S.C. § 1915(g). The Court “assess[es] the alleged danger at the time [plaintiff] filed his complaint,” *Mitchell v. Fed. Bureau of Prisons*, 587 F.3d 415, 420 (D.C. Cir. 2009), and in so doing “construe[s] his complaint liberally and accept[s] its allegations as true,” *id.* (citing *Ibrahim v. District of Columbia*, 463 F.3d 3, 6 (D.C. Cir. 2006)). None of the complaint’s factual allegations demonstrate that plaintiff is in imminent danger of serious physical injury.

The Court will deny plaintiff's application to proceed *in forma pauperis* and dismiss this civil action without prejudice. If plaintiff wishes to proceed with his claims, he may file a new complaint *and* pay the \$350 filing fee in full. An Order is issued separately.

DATE: 7/19/2017

  
United States District Judge