

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION

RANDALL LAMONT ROLLE,
D.O.C. # U-02521,

Plaintiff,

v.

CASE NO. 4:07-cv-00317-MP-WCS

MICHAEL DILMORE, et al.,

Defendants.

ORDER

This matter is before the Court on Doc. 4, Report and Recommendation of the Magistrate Judge, recommending that Plaintiff Rolle's complaint be dismissed. The Magistrate Judge filed the Report and Recommendation on Wednesday, July 25, 2007. The parties have been furnished a copy of the Report and Recommendation and have been afforded an opportunity to file objections. Pursuant to Title 28, United States Code, Section 636(b)(1), this Court must make a *de novo* review of those portions to which an objection has made.

In the Report and Recommendation, the Magistrate Judge states that Plaintiff is not entitled to proceed *in forma pauperis* in the federal courts because he has already incurred three "strikes" under 28 U.S.C. § 1915(g). Because Plaintiff has not paid the filing fee in this case, the Magistrate recommends that this case be dismissed. In his objections, Plaintiff contends that he does not have three strikes, and is therefore entitled to proceed *in forma pauperis*. Plaintiff states that he has only two strikes, and that the cases relied upon by the Magistrate cannot constitute the third strike. Although Plaintiff may disagree with the merits of the prior dismissed cases, it is clear that the dismissals constitute "strikes" for purposes of the Prison Litigation Reform Act. Thus, the Court agrees with the Magistrate that Plaintiff does have three strikes,

and that the complaint should be dismissed. Therefore, having considered the Report and Recommendation, and the objections thereto, I have determined that the Report and Recommendation should be ADOPTED. Accordingly, it is hereby

ORDERED AND ADJUDGED:

1. The Magistrate Judge's Report and Recommendation, Doc. 4, is adopted and incorporated by reference in this order.
2. Plaintiff's complaint, Doc. 1, is DISMISSED without prejudice as barred by 28 U.S.C. § 1915(g).

DONE AND ORDERED this 8th day of August, 2007

s/Maurice M. Paul

Maurice M. Paul, Senior District Judge