

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF FLORIDA
PANAMA CITY DIVISION

JAMES BERNARD CAMPBELL,

Plaintiff,

v.

CASE NO.: 5:11cv70-SPM/EMT

MR. ELLIS, et al.,

Defendants.

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ORDER

THIS CAUSE comes before the court on the magistrate judge's Order, Report and Recommendation dated June 9, 2011, (doc. 18), recommending dismissal of Plaintiff's complaint under the three strikes provision of 28 U.S.C. § 1915(g). Plaintiff has filed requests for extensions of time to respond (docs. 22, 23, and 24). The requests for extension of time will be denied because Plaintiff has already had adequate time to respond, and granting the requests would be futile.

As a three-striker, Plaintiff must demonstrate that he is in imminent danger of serious physical injury to proceed without payment of the filing fee. Plaintiff cannot meet this requirement because his complaint concerns cold temperatures he experienced while housed in disciplinary confinement at Gulf Correctional

Institution. Plaintiff has since been moved to Santa Rosa Correctional Institution. A claim by a prisoner that he faced a past imminent danger is insufficient to satisfy the imminent danger requirement when the prisoner is no longer in the dangerous situation. Redberry v. Butler, 185 F.3d 1189, 1193 (11th Cir. 1999).

In accordance with Title 28, United States Code, Section 636(b)(1), I have determined that the report and recommendation should be adopted. Accordingly, it is hereby ORDERED as follows:

1. The magistrate judge's report and recommendation (doc. 18) is ADOPTED and incorporated by reference in this order.
2. Plaintiff's motions for extension of time (docs. 22, 23, and 24) are denied.
3. This case is dismissed pursuant to 28 U.S.C. § 1915(g), without prejudice to Plaintiff's opportunity to refile with full payment of the filing fee.

DONE AND ORDERED this 12th day of July, 2011.

s/ Stephan P. Mickle
Stephan P. Mickle
Senior United States District Judge