

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
THOMASVILLE DIVISION**

LIN EDWARD DAVIS, SR.,

Plaintiff,

v.

CATHERINE SMITH, et al.,

Defendants.

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**Civil Action No.
6:06-CV-53 (HL)**

ORDER

On October 19, 2006, this case was dismissed when the Court denied Plaintiff's original Motion for Leave to Proceed In Forma Pauperis (Doc. 1) pursuant to the three strikes provision of the Prisoner Litigation Reform Act. Plaintiff now wishes to appeal that decision and has filed a Motion for Permission to Appeal In Forma Pauperis (Doc.12).

Section 1915(g) of the Prisoner Litigation Reform Act, commonly known as the three strikes provision, places limits on the use of in forma pauperis status and provides as follows:

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

28 U.S.C. § 1915(g) (2000). As the Court explained in its Order denying Plaintiff's original Motion for Leave to Proceed In Forma Pauperis, Plaintiff has previously filed at least three

cases, in which he was allowed to proceed in forma pauperis, that were dismissed as frivolous. See Davis v. U.S.A., No. CIV-89-2218-T, 1991 WL 35272, at *1 (10th Cir. Feb. 20, 1991) (appeal dismissed as frivolous and not taken in good faith); Davis v. Beach, et al., 5:91-cv-13-SBH-HWM (E.D. Tx. 1991) (complaint dismissed as frivolous and affirmed on appeal); Davis v. Reno, 1:94-cv-694-RCF (N.D. Ga. 1994) (complaint dismissed pursuant to 28 U.S.C. § 1915(d)); Davis v. Reno, 1:95-cv-1648-UNA (D.D.C. 1995) (complaint dismissed sua sponte pursuant to 28 U.S.C. § 1915(d) and affirmed on appeal). As Plaintiff has accumulated at least three strikes and makes no allegations sufficient to invoke the imminent danger exception, Plaintiff is not entitled to in forma pauperis status on appeal. Accordingly, Plaintiff's Motion for Permission to Appeal In Forma Pauperis (Doc. 12) is denied.

SO ORDERED, this the 12th day of December, 2006.

/s/ Hugh Lawson

HUGH LAWSON, Judge

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