

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

SALEEBAN ADAN,

Plaintiff,

v.

1:16-cv-27-WSD

**PRESIDENT OBAMA, individually
and in his official capacity,
WILLIAM STANLEY, Warden,**

Defendants.

OPINION AND ORDER

This matter is before the Court on Magistrate Judge Janet F. King's Final Report and Recommendation [2] ("R&R"), recommending that Plaintiff Saleeban Adan ("Plaintiff") be denied *in forma pauperis* status and that this action be dismissed without prejudice.

On January 4, 2016, Plaintiff, a prisoner, proceeding *pro se*, filed his Complaint [1] on behalf of himself and his cellmate Walter Hey. Plaintiff alleges that, in 2009, an officer punched him and his cellmate. Only Plaintiff has signed the Complaint. On February 2, 2016, the Magistrate Judge issued her R&R, recommending that Plaintiff be denied *in forma pauperis* status and that this action be dismissed without prejudice. Plaintiff has not filed objections to the R&R, and

the Court thus reviews it for plain error. See United States v. Slay, 714 F.2d 1093, 1095 (11th Cir. 1983), cert. denied, 464 U.S. 1050 (1984).

A prisoner may not bring an *in forma pauperis* civil action in federal court “if [he] 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); see Medberry v. Butler, 185 F.3d 1189, 1193 (11th Cir. 1999). This is known as the “three strikes” provision. Dupree v. Palmer, 284 F.3d 1234, 1236 (11th Cir. 2002). Where the three strikes rule does not allow a prisoner to proceed *in forma pauperis*, his complaint should be dismissed without prejudice. See id.

The Magistrate Judge found that Plaintiff’s Complaint should be dismissed because Plaintiff, while incarcerated, filed at least three civil actions that have been dismissed as frivolous, malicious, or for failure to state a claim. See Adan v. Does, No. 5:15-cv-0047-MTT-MSH (M.D. Ga. Mar. 5, 2015) (listing cases). The Magistrate Judge found further that Plaintiff does not have standing to assert the rights of his cellmate, Walter Hey. See Johnson v. Brown, 581 F. App’x 777, 781 (11th Cir. 2014) (“As a pro se litigant, Johnson cannot bring an action on behalf of

his fellow . . . inmates.”). The Court finds no plain error in these determinations.


For the foregoing reasons,

IT IS HEREBY ORDERED that Magistrate Judge Janet F. King’s Final Report and Recommendation [2] is **ADOPTED**.

IT IS FURTHER ORDERED that Plaintiff is **DENIED** *in forma pauperis* status.

IT IS FURTHER ORDERED that this action is **DISMISSED WITHOUT PREJUDICE**.

SO ORDERED this 28th day of September, 2016.



WILLIAM S. DUFFEY, JR.
UNITED STATES DISTRICT JUDGE