

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

IN RE: MICHAEL C. TIERNEY	)	NO. 1:12cv-00532 SOM/KSC
	)	
	)	ORDER DENYING MOTION FOR
_____	)	EXTENSION OF TIME

On September 27, 2012, the court issued an automatic Deficiency Order in this action, informing Plaintiff that he must either submit the civil filing fee or an *in forma pauperis* application within thirty days to proceed with his suit in this court. ECF #4. This order is routinely issued in all *pro se* actions that are filed without a civil filing fee or *in forma pauperis* application.

On October 2, 2012, however, the court screened the Complaint pursuant to 28 U.S.C. § 1915A, and determined that Plaintiff, who is incarcerated, has accrued more than three strikes under 28 U.S.C. § 1915(g), and may not proceed *in forma pauperis* unless he plausibly alleges that he is in imminent danger of serious physical injury. *See Andrews v. Cervantes*, 493 F.3d 1047, 1053 (9th Cir. 2007). Because Plaintiff did not allege imminent danger of serious physical injury at the time he filed this action, the court dismissed this action without prejudice to Plaintiff's alleging the same claims in a new action with concurrent payment of the civil filing fee. Dismissal Ord., ECF #5, PageID #14.

Plaintiff now seeks an extension of time to file an *in forma pauperis* application, apparently unaware that the court has determined that he may not proceed *in forma pauperis* based on the allegations in this action. Mot., ECF #7 (signed October 6, 2012).

For the reasons set forth in the October 2, 2012, Dismissal Order, Plaintiff's Motion is DENIED. Plaintiff does not allege imminent danger and is not entitled to proceed *in forma pauperis*. If Plaintiff wishes to reassert these claims, he may do so by submitting the entire \$350.00 filing fee when he files his action.

IT IS SO ORDERED.

DATED: Honolulu, Hawaii, October 16, 2012.



/s/ Susan Oki Mollway  
Susan Oki Mollway  
Chief United States District Judge

*In re: Tierney*, No. 1:12-cv-00532 SOM/KSC; Order Denying Motion for Extension of Time; G:\docs\prose attys\Non-disp Ords\DMP\2012\Tierney 12-532 som (dny ext time for IFP).wpd