

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

STEVEN PODKULSKI,

Plaintiff,

v.

COUNSELOR NIEPERT,

Defendant.

Case No. 3:18-CV-246-MJR

MEMORANDUM AND ORDER

ROSENSTENGEL, Chief Judge:

Steven Podkulski commenced this action on November 27, 2017, and filed a motion to proceed *in forma pauperis* (“IFP”). *Podkulski v. Trost, et al*, Case No. 17-cv-1284-NJR-GCS (S.D. Ill.), Docs. 1, 2. The Court severed Podkulski’s claims into three separate actions, and this case was dismissed with prejudice as legally frivolous (Doc. 6). The Court permitted Podkulski to proceed IFP in the remaining two cases. *Podkulski v. Trost, et al*, Case No. 17-cv-1284-NJR-GCS (S.D. Ill.), Doc. 6; *Podkulski v. Trost, et al*, Case No. 18-cv-214-NJR-MAB (S.D. Ill.), Doc. 7.

The Court has recently discovered that when Podkulski filed the complaint, he misrepresented to the Court that he was not incarcerated. *See Podkulski v. Trost, et al*, Case No. 17-cv-1284-NJR-GCS (S.D. Ill.), Doc. 65. Podkulski’s deception permitted him to skirt the Prison Litigation Reform Act (“PLRA”), which requires the Court to screen the complaint and dismiss claims that are frivolous, malicious, or fail to state a claim upon which relief can be granted. 28 U.S.C. § 1915A. Anytime a case or an appeal is dismissed

for one of these reasons, the plaintiff incurs a “strike.” 28 U.S.C. § 1915g. Once a plaintiff earns three strikes, he is prohibited from proceeding IFP in any future civil action or on any appeal, unless he is under imminent danger of serious physical injury. *Id.*

Because the PLRA applied to this case when it was dismissed as frivolous, the Court **AMENDS** the Order Dismissing Case (Doc. 5) to assess Podkulski a strike under 28 U.S.C. § 1915g. The Order Dismissing Case is otherwise unchanged.

IT IS SO ORDERED.

DATED: June 26, 2019

A handwritten signature in black ink that reads "Nancy J. Rosenstengel". The signature is written in a cursive style. A faint circular seal is visible behind the signature.

NANCY J. ROSENSTENGEL
Chief U.S. District Judge