

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

DERRICK BAKER,

Plaintiff,

v.

K. GRIFFIN, et al.,

Defendants.

CAUSE NO. 3:17-CV-551-JD-MGG

OPINION AND ORDER

Derrick Baker, a prisoner without a lawyer, was granted leave to proceed *in forma pauperis*. However, upon further review, Baker is barred from proceeding *in forma pauperis* by 28 U.S.C. § 1915(g). This is commonly known as the “Three Strikes Rule” and Baker has accumulated three strikes:

- (1) *Baker v. State of Indiana*, 1:14-CV-907 (S.D. Ind. filed June 3, 2014), dismissed on September 29, 2014, pursuant to 28 U.S.C. § 1915A for failure to state a claim;
- (2) *Baker v. Knight*, 1:15-CV-499 (S.D. Ind. filed March 25, 2015), dismissed on February 13, 2017, pursuant to 28 U.S.C. § 1915A for failure to state a claim;
- (3) *Baker v. Mabey*, 1:15-CV-958 (S.D. Ind. filed June 18, 2015), dismissed on July 22, 2015, pursuant to 28 U.S.C. § 1915A for failure to state a claim.

An inmate with three or more strikes “can use the partial prepayment option in § 1915(b) only if in the future he ‘is under imminent danger of serious physical injury.’” *Abdul-Wadood v. Nathan*, 91 F.3d 1023, 1025 (7th Cir. 1996). In order to meet the imminent danger standard, the threat complained of must be real and proximate. *Ciarpaglini v. Saini*, 352 F.3d 328, 330 (7th Cir. 2003). Only “genuine emergencies” qualify as a basis for circumventing § 1915(g). *Lewis v. Sullivan*, 279 F.3d 526, 531 (7th Cir. 2002). In this case, Baker is suing a correctional officer for

a single use of force incident in March 2017 and suing other staff members for failing to prevent it. There are no allegations of imminent danger of serious physical injury. Thus, he may not proceed *in forma pauperis* and must pay the \$400 filing fee to continue with this case.

For these reasons, the order allowing Derrick Baker to proceed *in forma pauperis* (ECF 9) is **VACATED**. Derrick Baker is **ORDERED** to pay the \$400 filing fee by **January 23, 2018**; and **CAUTIONED** if the fee is not paid by that date, this case will be dismissed without further notice.

SO ORDERED.

ENTERED: December 28, 2017

 /s/ JON E. DEGUILIO
Judge
United States District Court