UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF INDIANA INDIANAPOLIS DIVISION

JAMES HENLEY,)
Plaintiff,))
VS.) Case No. 1:15-cv-00845-TWP-DKL
BETH HARDESTY-MONTGOMERY, ASHLEY HARDESTY-MONTGOMERY,)))
Defendants.)

Entry Rescinding In Forma Pauperis Status

The court may, in appropriate circumstances, rescind a decision to grant a litigant *in forma* pauperis status. Wartman v. Branch 7, Civil Division, County Court, 510 F.2d 130, 133 (7th Cir. 1975). This is an appropriate case for such action.

The grant of leave to proceed *in forma pauperis* is **REVOKED**. The reason for this ruling is that the plaintiff was not eligible to proceed in that fashion at the time he filed this lawsuit. More specifically, the plaintiff is a prisoner and has on three or more prior occasions brought an action or appeal that was dismissed on the grounds that it was frivolous or failed to state a claim upon which relief may be granted. Thus, he was ineligible to proceed *in forma pauperis* by 28 U.S.C. § 1915(g). It can be added here that the narrow exception to the barrier created by § 1915(g)—where a prisoner alleges that he "is under imminent danger of serious physical injury"—does not apply to the claims or allegations in the complaint.

In *Evans v. Illinois Department of Corrections*,150 F.3d 810 (7th Cir. 1998), it was noted that a prisoner-litigant in these circumstances is entitled to know the cases the court relies on when

making the three-strikes determination. For the plaintiff's reference, the cases on which the court relies in finding three or more "strikes" consist of the following:

Henley v. Aramark, 3:15-cv-95-RLM (N.D. Ind. Mar. 11, 2015) (dismissing action pursuant to 28 U.S.C. § 1915A).

Henley v. Harris, 1:14-cv-317-WTL-DML (S.D. Ind. April 21, 2014) (dismissing action for failure to state a claim pursuant to 28 U.S.C. § 1915A).

Henley v. Marion County Public Defender, 1:14-cv-1050-JMS-DKL (S.D. Ind. Sept. 8, 2014) (dismissing action for failure to state a claim pursuant to 28 U.S.C. § 1915A).

The plaintiff shall have **through July 8, 2015**, in which to pay the filing fee for this action. No initial partial filing fee was paid. Accordingly, the **balance due is Four Hundred Dollars** (\$400.00). Failure to timely pay the filing fee in full will result in dismissal of this action without further notice.

IT IS SO ORDERED.

Date: 6/24/2015

TANYA WALTON PRATT, JUDGE

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United States District Court Southern District of Indiana

Distribution:

JAMES HENLEY 150168 MIAMI CORRECTIONAL FACILITY Inmate Mail/Parcels 3038 West 850 South BUNKER HILL, IN 46914