

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

Entry Directing Further Proceedings

I.

The plaintiff's motion for leave to proceed *in forma pauperis* [dkt. 2] is **granted** based on his representation that he is "under imminent danger of serious physical injury." See 28 U.S.C. § 1915(g). The plaintiff is assessed an initial partial filing fee of Five Dollars and Thirty-Three (\$5.33). He shall have **through January 6, 2016**, in which to pay this sum to the clerk of the district court.

II.

The plaintiff's request for "emergency screening of prisoner complaint" [dkt. 3] is **granted** to the extent that the complaint docketed on December 12, 2015, has been considered as soon as possible.

III.

Plaintiff Kevin S. Turner alleges that he is under imminent danger of serious physical injury given his placement in general population. His complaint explains that he has been assigned to general population where he will be physically injured. He knows this because he is considered an

informant, a hit has been placed on him, and he was attacked by his cellmate when he was placed in general population in October 2015. This claim for injunctive relief is based on the theory that Mr. Turner is currently subjected to unconstitutional conditions of confinement in violation of the Eighth Amendment.

The defendant who can provide the injunctive relief Mr. Turner seeks is Warden Keith Butts, in his official capacity. All other claims are severed and all other defendants (with the exception of Warden Keith Butts) are dismissed without prejudice. The clerk is directed to terminate these defendants on the docket.

The reason for the severing of claims is the following. Mr. Turner has acquired three strikes and is not permitted to file a civil action without the prepayment of the filing fee unless he under imminent danger of serious physical injury. Mr. Turner's claims for money damages against the defendants in their individual capacities are separate from the claim for injunctive relief against the Warden in his official capacity. In addition, the claims of retaliation and failure to protect based on circumstances which occurred in October 15, 2015, are outside the scope of the imminent danger exception. If Mr. Turner seeks to bring these claims, he must do so by filing another civil action along with the \$400.00 filing fee.

IV.

The **clerk is designated**, pursuant to *Fed. R. Civ. P.* 4(c)(3), to issue and serve process on the defendant Warden Butts in the manner specified by *Fed. R. Civ. P.* 4(d)(1). Process shall consist of the complaint, applicable forms and this Entry.

IT IS SO ORDERED.

Date: 12/16/2015



TANYA WALTON PRATT, JUDGE
United States District Court
Southern District of Indiana

Distribution:

Financial Deputy Clerk

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