

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA

ARTHUR LEE GATES, JR.,)
vs.)
INDIANA DEPT. OF CORRECTIONS,)
et al.,)
vs.) 2:11-cv-280-JMS-DKL
Plaintiff,)
Defendants.)

ENTRY

I.

The plaintiff's request to proceed *in forma pauperis* [2] is **denied** because the plaintiff is not entitled to that status. The specific circumstance requiring this ruling is that the plaintiff has acquired three or more strikes through having litigation to which he was a party in a federal court dismissed for failure to state a claim upon which relief could be granted or as frivolous. Therefore, he is not entitled to proceed *in forma pauperis*, unless the exception under 28 U.S.C. 1915(g), that he is under imminent danger of serious physical injury, applies. Those circumstances are not presented by his claim in this case.

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 3-strikes determination. For plaintiff Gates=reference, the cases on which the court relies in finding three or more strikes were each filed in the United States District Court for the Southern District of Indiana, and consist of the following:

EV 92-73-C	Dismissed as legally frivolous
EV 90-71-C	Dismissed as legally frivolous
EV 93-31-C	Dismissed as legally frivolous
TH 96-88-C	Dismissed as legally frivolous
EV93-008-C	Dismissed as legally frivolous

These prior "strikes" were brought to Mr. Gates' attention in the Entry issued on December 13, 2007, in No. 3:07-cv-178-SEB-WGH.

II.

The plaintiff shall have **through November 15, 2011**, in which to pay the \$350.00 filing fee for this action.

IT IS SO ORDERED.

Date: 10/24/2011



Hon. Jane Magnus-Stinson, Judge
United States District Court
Southern District of Indiana

Distribution:

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