

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

TREVOR PIOTROWSKI,

Case No. 17-cv-13631

Plaintiff,

UNITED STATES DISTRICT COURT JUDGE
GERSHWIN A. DRAIN

v.

RICK SNYDER,
Defendant.

/

**ORDER DISMISSING COMPLAINT AND DENYING PLAINTIFF'S APPLICATION FOR
LEAVE TO PROCEED WITHOUT PREPAYMENT OF FILING FEE**

Plaintiff Trevor Piotrowski, presently incarcerated at Woodland Center Correctional Facility in Whitmore Lake, Michigan, filed on November 2, 2017 a *pro se* civil rights Complaint under 42 U.S.C. § 1983. Additionally, Piotrowski filed a request to proceed in this case without prepaying fees, i.e. *in forma pauperis*. *See* 28 U.S.C. § 1915(a)(1). For the reasons stated below, the Court will DENY Piotrowski's request for leave to proceed *in forma pauperis* and will DISMISS the Complaint pursuant to 28 U.S.C. § 1915(g).

The Prison Litigation Reform Act ("PLRA"), Pub. L. No. 104-134, 110 Stat. 1321, restricts prisoners' ability to proceed *in forma pauperis* in civil actions. The PLRA provides, in relevant part:

In no event shall a prisoner bring a civil action or appeal a judgment in a civil action or proceeding under this section, if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.

42 U.S.C. § 1915(g).

Pursuant to this “three strikes” provision, a court may dismiss a case in which a prisoner seeks to proceed *in forma pauperis*, if a federal court has dismissed at least three actions brought by the prisoner because the actions were frivolous, malicious, or failed to state a claim for which relief may be granted. *Id.*; *see also Edwards v. Gaul*, 40 F. App’x 970, 971 (6th Cir. 2002) (holding that district court properly dismissed without prejudice a prisoner’s civil rights complaint barred by the “three strikes” provision).

Federal courts have dismissed more than three of Piotrowski’s civil rights complaints for frivolousness, maliciousness, or failure to state a claim. *See, e.g., Piotrowski v. Snyder*, No. 2:16-cv-00251 (W.D. Mich. Dec. 7, 2016); *Piotrowski v. Michigan*, No. 1:12-cv-00011 (W.D. Mich. Feb. 28, 2012); *Piotrowski v. Petro*, No. 2:04-cv-73177 (E.D. Mich. Sept. 10, 2004).

The PLRA provides an exception to the three strikes rule where a prisoner is

“under imminent danger of serious physical injury,” but this exception is inapplicable here. *See* 28 U.S.C. § 1915(g). To qualify for this exception, prisoners must allege that at the time they are filing their complaints and asking to proceed *in forma pauperis*, they are facing imminent danger. *See Vandiver v. Vasbinder*, 416 F. App’x 560, 561 (6th Cir. 2011). Piotrowski fails to allege any facts suggesting he faces imminent danger of serious physical injury. Rather, he simply raises claims of libel and slander against Defendant Snyder. *See, e.g., Mulazim v. Mich. Dep’t of Corrs.*, 28 F. App’x 470, 471–72 (6th Cir. 2002) (dismissing complaint because prisoner “concede[d] that he has ‘three strikes,’ ” and did not allege facts showing imminent danger of physical injury). As this exception does not apply, the Court must dismiss Plaintiff’s Complaint.

Accordingly, the Court **DENIES** Plaintiff’s application for leave to proceed without prepayment of the filing fee. The Court also **DISMISSES** the Complaint pursuant to 28 U.S.C. § 1915(g). This dismissal is without prejudice to Plaintiff filing a new Complaint with payment of the filing fee.

IT IS SO ORDERED.

Dated: November 27, 2017

/s/Gershwin A. Drain
GERSHWIN A. DRAIN
United States District Judge

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on
November 27, 2017, by electronic and/or ordinary mail.

/s/ Tanya Bankston
Deputy Clerk