

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION**

STANLEY MONTGOMERY

PLAINTIFF

V.

NO. 4:15-CV-45-DMB-SAA

MARSHALL FISHER, ET AL.

DEFENDANTS

ORDER

The Court, *sua sponte*, reconsiders the *in forma pauperis* status of *pro se* prisoner Stanley Montgomery under the Prison Litigation Reform Act (“PLRA”). Under the PLRA, an inmate may not proceed *in forma pauperis* in a civil action if he has had three or more cases dismissed (“three strikes”) as frivolous, malicious, or for failure to state a claim upon which relief may be granted, unless he is under imminent danger of serious physical injury. 28 U.S.C. § 1915(g).¹ The Court recently determined that Montgomery has already accumulated at least three strikes. *See Montgomery v. Mississippi Department of Corrections*, 4:15-CV-21-DMB-JMV (Doc. #7).² Thus, pursuant to 28 U.S.C. § 1915(g), Montgomery may proceed as a pauper only if he can demonstrate that he is in imminent danger of serious physical harm.

Montgomery has submitted a complaint in this case challenging the conditions of his confinement under 42 U.S.C. § 1983. Upon careful review, his allegations do not raise an inference that he is in imminent danger of serious physical harm.

¹ Section 1915(g) provides that “[i]n 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.”

² In *Montgomery v. Mississippi Department of Corrections*, 4:15-CV-21-DMB-JMV, the Court found that Montgomery accumulated “strikes” under 28 U.S.C. § 1915(g) in the following cases: *Montgomery v. Palmer*, 1:12-CV-73 (Doc. #41, failure to state claim); *Montgomery v. Mississippi Department of Corrections*, 1:14-CV-8 (Doc. #16, failure to state claim); and *Montgomery v. Mississippi Department of Corrections*, 3:14-CV-79-DPJ-FKB (S.D. Miss.) (Doc. #12, duplicative lawsuit dismissed as malicious). Montgomery also earned a fourth strike in *Montgomery v. State of Mississippi*, 1:14-CV-125 (Doc. #12 & Doc. #13, failure to state claim under holding in *Heck v. Humphrey*, 512 U.S. 477 (1994)).

It is therefore **ORDERED** that Montgomery's pauper status is **REVOKED**, and the prior order [6] granting him leave to proceed *in forma pauperis* is **WITHDRAWN**.

It is further **ORDERED** that Montgomery must pay the filing fee within twenty-one (21) days of the date of this order. If Montgomery fails to pay the filing fee within twenty-one (21) days, the Clerk of the Court is **DIRECTED** to dismiss this case without further action by the Court.

SO ORDERED, this 18th day of June, 2015.

/s/ Debra M. Brown
UNITED STATES DISTRICT JUDGE