

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

RICKY RONNELL EWING, #34353

PLAINTIFF

v.

CAUSE NO. 1:16CV76-LG-RHW

AUSTIN WILLIAM

DEFENDANT

**ORDER ADOPTING PROPOSED FINDINGS OF FACT AND
RECOMMENDATION AND REVOKING IN FORMA PAUPERIS STATUS**

BEFORE THE COURT is the Report and Recommendation [12] of United States Magistrate Robert H. Walker, in which he recommends that Plaintiff Ricky Ronnell Ewing's *in forma pauperis* status be revoked. After due consideration of Ewing's objection, the Court adopts the Magistrate Judge's recommendation.

DISCUSSION

Ewing is an inmate at the South Mississippi Correctional Institution. He was granted leave to proceed *in forma pauperis* in this action filed pursuant to 42 U.S.C. § 1983. (See Order Setting Payment Schedule, ECF No. 6). After Ewing was granted IFP status, Magistrate Judge Walker discovered that Ewing has at least three "strikes" against him.¹ Magistrate Judge Walker accordingly concluded that pursuant to 28 U.S.C. § 1915(g), Ewing is not entitled to proceed *in forma pauperis* in this lawsuit.

Ewing filed a response to the Magistrate Judge's recommendation in which he does not dispute that he has accrued three strikes, but argues that he should not be required to pay the filing fee because he is indigent and disabled. As the Magistrate

¹ *Ewing v. Jones*, 1:15cv254-HSO-JCG; *Ewing v. Cooley*, 1:15cv277-HSO-JCG; and *Ewing v. Richie*, 1:16cv90-HSO-JCG.

Judge noted, Ewing's allegations do not show that he is in imminent danger of serious physical injury, and therefore he does not qualify for the only exception to the three strikes rule. The Magistrate Judge did not err in recommending that Ewing's IFP status be revoked.

CONCLUSION

Having conducted the required review of the issues presented, the Court finds that Ewing fails to show that the § 1915(g) bar should not apply to this lawsuit. The Court will adopt the Magistrate Judge's recommendation that Ewing's *in forma pauperis* status be revoked pursuant to 28 U.S.C. § 1915(g). Ewing must pay the \$350.00 filing fee to avoid dismissal of this lawsuit.

IT IS THEREFORE ORDERED AND ADJUDGED that the Report and Recommendation [12] of United States Magistrate Robert H. Walker is **ADOPTED** as the findings and conclusions of this Court.

IT IS FURTHER ORDERED AND ADJUDGED that Plaintiff's *in forma pauperis* status is hereby **REVOKED**. The plaintiff must pay the Clerk of the Court the required filing fee within thirty (30) days. Failure to do so will result in dismissal of this lawsuit for want of prosecution under Fed. R. Civ. P. 41(b).

SO ORDERED AND ADJUDGED this the 8th day of December 2016.

s/ Louis Guirola, Jr.

Louis Guirola, Jr.
Chief U.S. District Judge