

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION**

WILLIAM WENTWORTH FOSTER,

Plaintiff,

v.

GEORGE LOMBARDI, et al.,

Defendants,

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No. 1:16-CV-241 SNLJ

MEMORANDUM AND ORDER

This matter is before the Court on plaintiff's motion to proceed in forma pauperis. Plaintiff, a prisoner, has filed at least three previous cases that were dismissed as frivolous, malicious, or for failure to state a claim.¹ Under 28 U.S.C. § 1915(g), therefore, the Court may not grant the motion unless plaintiff "is under imminent danger of serious physical injury."

After carefully reviewing the complaint, the Court finds no allegations that show plaintiff is in imminent danger of serious physical injury. Plaintiff's allegations of imminent serious harm are hypothetical. He claims that he and "thousands of other inmates" cannot afford hygiene items from the canteen and are therefore forced to buy them from predatory inmates. He says he may be assaulted by one of these inmates in the future. He does not allege, however, that he recently received a credible threat or that correctional officers have refused his recent requests for protection. His other claims of physical harm refer to incidents that occurred in 2014 and 2015, which do not qualify as imminent danger. *See Ashley v. Dilworth*, 147 F.3d 715, 717 (8th Cir. 1998). As a result, the Court will deny the motion and dismiss this action without prejudice to refile as a fully-paid complaint.

¹ *See Foster v. Moore*, No. 2:91-CV-4539 (W.D. Mo.); *Foster v. Malone*, No. 2:90-CV-4058 (W.D. Mo.); and *Foster v. Rutledge*, No. 2:89-CV-4496 (W.D. Mo.).

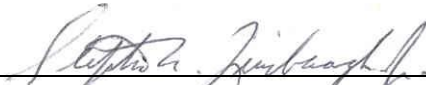
Accordingly,

IT IS HEREBY ORDERED that plaintiff's motion for leave to proceed in forma pauperis [ECF No. 2] is **DENIED**.

IT IS FURTHER ORDERED that this action is **DISMISSED** without prejudice.

An Order of Dismissal will be filed separately.

Dated this 23rd day of September, 2016.



STEPHEN N. LIMBAUGH, JR.
UNITED STATES DISTRICT JUDGE