

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
SOUTHEASTERN DIVISION

GARY DEE BICE, )  
Plaintiff, )  
v. )  
JOHN JORDAN, )  
Defendant. )  
No. 1:17-cv-76-JAR

## **MEMORANDUM AND ORDER**

This matter is before the Court on plaintiff Gary Dee Bice's motion for reconsideration of this Court's May 19, 2017 Memorandum and Order denying him leave to proceed *in forma pauperis*. For the reasons explained below, the motion will be denied.

## Procedural History

Plaintiff filed his complaint on May 8, 2017, naming as defendant John Jordan, the Sheriff of the Cape Girardeau County Jail, alleging claims concerning unauthorized use of his bank card.

On that same date, plaintiff filed a motion seeking leave to proceed *in forma pauperis*. In a Memorandum and Order dated May 19, 2017, the Court denied plaintiff's motion pursuant to 28 U.S.C. § 1915(g). In so doing, the Court noted that plaintiff had previously filed three or more cases that were dismissed as frivolous, malicious, or for failure to state a claim upon which relief could be granted. The Court then carefully reviewed the complaint, and concluded that it contained no allegations tending to show that plaintiff was under imminent danger of serious physical injury. The Court directed plaintiff to pay the full amount of the filing fee or face dismissal of his complaint.

Plaintiff now moves for reconsideration of that order. In support, he states that he does not understand the Court's order and asks that this Court grant his motion for leave to proceed *in forma pauperis*.

### **Discussion**

The Prisoner Litigation Reform Act provides, in relevant detail:

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.

28 U.S.C. § 1915(g).

As set forth in the May 19 Memorandum and Order, plaintiff has previously filed at least three cases that were dismissed as frivolous, malicious, or for failure to state a claim. *See Bice v. Ester*, No. 1:10-cv-93-SNLJ (E.D. Mo. Sept. 13, 2010); *Bice v. Commission or Directors of Cape Girardeau City Police Dept.*, No. 1:11-cv-27-SNLJ (E.D. Mo. Feb. 25, 2011); and *Bice v. Eastest*, 1:13-cv-181 SNLJ (E.D. Mo. Mar. 26, 2014). In addition, the allegations of the complaint did not indicate that plaintiff was in imminent danger of serious physical injury. The Court was therefore precluded from granting plaintiff leave to proceed *in forma pauperis*. The instant motion provides no basis for changing that decision.

This does not mean that plaintiff cannot proceed with this case after paying the \$400.00 filing fee. In consideration of plaintiff's *pro se* status, the Court will grant him an additional fourteen (14) days to pay the filing fee.

Accordingly,

**IT IS HEREBY ORDERED** that Gary Dee Bice's motion for reconsideration (Docket No. 5) is **DENIED**.

**IT IS FURTHER ORDERED** that plaintiff shall have an additional fourteen (14) days, to and including **Friday, June 23, 2017**, to pay the statutory filing fee of \$400.00.

Dated this 5<sup>th</sup> day of June, 2017.

  
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**JOHN A. ROSS**  
**UNITED STATES DISTRICT JUDGE**