

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

ROBERT BELL, JR.,)	
)	
Plaintiff,)	
)	
v.)	No. 4:21-CV-1426-HEA
)	
ASHLEY M. MEYER,)	
)	
Defendant.)	

OPINION, MEMORANDUM AND ORDER

This matter is before the Court upon the submission of a civil complaint filed by Robert Bell, Jr., an inmate at the Southeast Correctional Center (“SECC”), inmate number 526934. For the reasons explained below, this case will be dismissed without prejudice to the filing of a fully-paid complaint.

Plaintiff is a prisoner who, while incarcerated, has filed at least three civil actions that were dismissed on the grounds that they were frivolous, malicious, or failed to state a claim upon which relief may be granted.¹ The Prison Litigation Reform Act of 1996 provides, in relevant part:

In no event shall a prisoner bring a civil action ... under this section if the prisoner has, on three or more prior occasions, while incarcerated or detained in any facility, brought an action ... 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). Section 1915(g) is commonly known as the “three strikes” rule, and it has withstood constitutional challenges. *See Higgins v. Carpenter*, 258 F.3d 797, 799 (8th Cir. 2001).

¹ *See Bell v. Rigel*, No. 4:04-CV-706-HEA (E.D. Mo. Nov. 29, 2004); *Bell v. Steele, et al.*, No. 1:06-CV-144-LMB (E.D. Mo. Jan. 19, 2007); and *Bell v. Steele, et al.*, No. 1:07-CV-25-LMB (E.D. Mo. Apr. 12, 2007).

When plaintiff initiated this action, he neither paid the \$402 filing fee, nor filed a separate motion seeking leave to proceed *in forma pauperis*. However, this Court could only allow plaintiff to proceed *in forma pauperis* if the allegations in his complaint established he was under imminent danger of serious physical injury. In the complaint and documents attached thereto, plaintiff alleges that money has been wrongfully debited from his inmate account. These allegations do not establish that plaintiff is under imminent danger of serious physical injury. Therefore, it would be futile to allow plaintiff the opportunity to file a motion for leave to proceed *in forma pauperis* because the Court would be unable to grant it. The Court will therefore dismiss this action without prejudice to the filing of a fully-paid complaint.

Accordingly,

IT IS HEREBY ORDERED that this case is **DISMISSED** without prejudice to the filing of a fully-paid complaint. A separate order of dismissal will be entered herewith.

Dated this 10th day of December, 2021.



HENRY EDWARD AUTREY
UNITED STATES DISTRICT JUDGE