

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

BILLIE JOE CHAPMAN, Poverty
because of wrongful conduct by
defendant;

Plaintiff,

vs.

RYAN TEMPLETON, and OMAHA
POLICE DEPARTMENT, 505 S. 15th
Street, Omaha, NE 68102 and criminal
prosecution against the above;

Defendants.

4:18CV3025

**MEMORANDUM
AND ORDER**

This matter is before the court on Plaintiff Billie Joe Chapman's "Motion to Show Harm, Torment, and Constitutional Violations" ([Filing No. 10](#)) which the court construes as a response to the court's February 27, 2018 order requiring Chapman to show cause why he is entitled to proceed in forma pauperis ("IFP") in this action. (See [Filing No. 5](#).) The court has previously determined that three or more federal court cases brought by Plaintiff, while a prisoner, were dismissed as frivolous or for failure to state a claim. See *Chapman v. Chief Executive Officer*, Case No. 8:15CV259 (D.Neb.) ([Filing No. 9](#), August 19, 2015 Memorandum and Order dismissing action pursuant to PLRA's "three strikes" provision). The Prison Litigation Reform Act ("PLRA") prevents a prisoner with "three strikes" from proceeding IFP unless the prisoner is under imminent danger of serious physical injury. [28 U.S.C. § 1915\(g\)](#).

In his response, Chapman restates the allegations from his Complaint regarding the false evidence given by Defendant Ryan Templeton against Chapman in his state criminal proceedings and argues that Templeton's wrongful conduct has subjected Chapman to ongoing harm in the form of mental anguish

and torment as a result of Chapman's illegal restraint. The court has considered Chapman's response to the court's show cause order, the Complaint, and his other filings and finds his allegations do not support a finding that Chapman is "under imminent danger of serious physical injury." 28 U.S.C. § 1915(g). Chapman's conclusory allegations that he suffers physical and emotional harm as a result of his alleged illegal restraint fail to establish a threat of serious injury sufficient to overcome the "three strikes" bar. Accordingly,

IT IS THEREFORE ORDERED that:

1. Chapman's Motion for Leave to Proceed in Forma Pauperis ([Filing No. 2](#)) and "Motion to Show Harm" ([Filing No. 10](#)) are denied.
2. This case is dismissed without prejudice and a separate judgment will be entered in accordance with this Memorandum and Order.
3. Any notice of appeal filed by Chapman must be accompanied by the \$505.00 appellate filing fee because Chapman will not be allowed to proceed in forma pauperis on appeal.

Dated this 9th day of April, 2018.

BY THE COURT:

s/ Richard G. Kopf
Senior United States District Judge