

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

JAMAAL A. MCNEIL,	)	8:13CV384
	)	
Plaintiff,	)	
	)	
v.	)	<b>MEMORANDUM</b>
	)	<b>AND ORDER</b>
UNITED STATES OF AMERICA,	)	
	)	
Defendant.	)	

This matter is before the court on its own motion. On January 14, 2014, the court required Plaintiff to show cause why he is entitled to proceed in forma pauperis (“IFP”) pursuant to the provisions of [28 U.S.C. §1915\(g\)](#) (“§ 1915(g”). (Filing No. [6](#).) For the reasons discussed below this case is dismissed with prejudice.

### I. BACKGROUND

On December 23, 2013, while incarcerated, Plaintiff filed a Complaint. (Filing No. [1](#).) However, Plaintiff failed to pay the filing and administrative fees or request leave to proceed IFP. (*See* Docket Sheet.) The court ordered him to correct this defect by February 3, 2014. (Filing No. [4](#).)

On January 13, 2014, Plaintiff filed a Motion for Leave to Proceed IFP. (Filing No. [2](#).) On January 14, 2014, the court determined that Plaintiff is a three-strikes litigant who filed at least three prior actions that were dismissed as frivolous, malicious, or for failure to state a claim upon which relief may be granted. (Filing No. [6](#).) *See also* *McNeil v. Public Defender Office*, Case No. 4:06CV3204 (D. Neb.), dismissed on September 5, 2006; *McNeil v. City of Omaha, et al.*, Case No. 8:07CV145 (D. Neb.), dismissed on May 16, 2007; and *McNeil v. City of Omaha, et al.*, No. 8:07CV143 (D. Neb.), dismissed on August 26, 2008.

Because Plaintiff is a three-strikes litigant, the court ordered Plaintiff to either show cause why he is entitled to proceed IFP or pay the full \$400.00 filing and administrative fees, this case would be dismissed. (Filing No. [6](#).) Thereafter, Plaintiff filed three Objections. (Filing Nos. [7](#), [8](#), and [9](#).)

## II. ANALYSIS

A prisoner may not bring a civil action and proceed IFP if the prisoner has, on three or more occasions, while incarcerated, brought an action or appeal in federal court that was dismissed on the grounds that it was frivolous, malicious, or failed to state a claim upon which relief may be granted. [§ 1915\(g\)](#). An exception is made for prisoners who are under imminent danger of serious physical injury. *Id.*

In his Objections, Plaintiff does not show that he is under imminent danger of serious physical injury. (See Filing Nos. [7](#), [8](#), and [9](#).) Thus, Plaintiff is not entitled to proceed IFP. Moreover, Plaintiff has not paid the \$400.00 filing and administrative fees. (See Docket Sheet.) For these reasons, this matter must be dismissed.

IT IS THEREFORE ORDERED that:

1. This matter is dismissed without prejudice.
2. All pending Motions are denied.
3. A separate judgment will be entered in accordance with this Memorandum and Order.

DATED this 13<sup>th</sup> day of February, 2014.

BY THE COURT:

s/ Joseph F. Bataillon  
United States District Judge

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