

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JUSTIN CREDICO : CIVIL ACTION

v. :

FDC PHILA MLP BOKHARI, et al. : NO. 16-3726

FILED

JUL 21 2016

SCHMEHL, J. 

MEMORANDUM

JULY 20

2016 MICHAEL E. KUNZ, Clerk
By 

Plaintiff, an inmate, has filed this civil action against members of the staff at the Federal Detention Center in Philadelphia, two unidentified persons at the Regional Office of the Bureau of Prisons, the United States Attorney General and the Senate Legal Counsel. Currently before the Court is plaintiff's motion to proceed *in forma pauperis*.

According to § 1915(g), a prisoner who on three or more prior occasions while incarcerated has filed an action or appeal in federal court that was dismissed as frivolous, malicious, or for failure to state a claim upon which relief may be granted, must be denied *in forma pauperis* status unless he was in imminent danger of serious physical injury at the time that the complaint was filed. *Abdul-Akbar v. McKelvie*, 239 F.3d 307, 310-11 (3d Cir. 2001) (en banc). "[A] strike under § 1915(g) will accrue only if the entire action or appeal is (1) dismissed explicitly because it is 'frivolous,' 'malicious,' or 'fails to state a claim' or (2) dismissed pursuant to a statutory provision or rule that is limited solely to dismissals for such reasons, including (but not necessarily limited to) 28 U.S.C. §§ 1915A(b)(1), 1915(e)(2)(B)(i), 1915(e)(2)(B)(ii), or Rule 12(b)(6) of the Federal Rules of Civil Procedure." *Byrd v. Shannon*, 715 F.3d

117, 126 (3d Cir. 2013). Plaintiff accumulated at least three "strikes" for purposes of 28 U.S.C. § 1915(g) at the time he filed this action. See *Credico v. Milligan*, 544 F. App'x 46, 48 (3d Cir. 2013) (dismissing appeal as frivolous pursuant to 28 U.S.C. § 1915(e)(2)(B)(i)); *Credico v. Unknown Official for U.S. Drone Strikes*, 537 F. App'x 22 (3d Cir. 2013) (same); *Credico v. CEO Idaho Nat'l Lab.*, 461 F. App'x 78 (3d Cir. 2012) (dismissing appeal as frivolous); *Credico v. Milligan*, E.D. Pa. Civ. A. No. 13-4111 (E.D. Pa.) (July 24, 2013 Memorandum and Order dismissing the case as frivolous); *Credico v. Unknown Official for Drone Strikes*, E.D. Pa. Civ. A. No. 13-1311 (E.D. Pa.) (April 15, 2013 Order dismissing the case as frivolous); *Credico v. CEO Idaho Nat'l Lab.*, E.D. Pa. Civ. A. No. 11-6025 (Oct. 4, 2011 Order dismissing the case as frivolous).

In light of plaintiff's three strikes, he may not proceed *in forma pauperis* unless he was in imminent danger of serious physical injury at the time he filed his complaint. Plaintiff is alleging that he is not receiving adequate medical treatment for itching, burning, numbness and pain that he has on his legs where he was bitten by a bat prior to his incarceration. Therefore, plaintiff will be allowed to proceed *in forma pauperis* on that claim alone against defendants Bokhari, Baker and Murphy. Plaintiff's other claims will be dismissed without prejudice.