

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

DAWN MARIE BALL,	:	Civil No. 1:11-CV-1832
Plaintiff	:	
	:	(Chief Judge Kane)
v.	:	
	:	(Magistrate Judge Carlson)
POWLEY, <u>et al.</u>,	:	
Defendants	:	

ORDER

THE BACKGROUND OF THIS ORDER IS AS FOLLOWS:

On December 7, 2011, Defendants filed a motion to revoke Plaintiff Dawn Marie Ball’s in forma pauperis status on the ground that she has had three cases dismissed “on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted.” See 28 U.S.C. § 1915(g). On January 31, 2012, Magistrate Judge Carlson issued a Report and Recommendation in which he recommended that the motion be denied, but that Plaintiff be placed on notice that at the time of the filing of her complaint in the above captioned action she had two prior suits dismissed on the grounds that they were frivolous, malicious, or failed to state a claim upon which relief may be granted. On March 5, 2012, Plaintiff filed an objection arguing that she did not have “two strikes” as that term is understood in the context of 28 U.S.C. § 1915(g). Upon a de novo review of the motion and Plaintiff’s litigation history, the Court agrees with Magistrate Judge Carlson, that Plaintiff has had two prior suits dismissed on the grounds that they were frivolous, malicious, or failed to state a claim upon which relief may be granted.

ACCORDINGLY, on this 6th day of March 2012, **IT IS HEREBY ORDERED THAT** the Report and Recommendation (Doc. No. 48) is **ADOPTED** and Defendant’s motion (Doc.

No. 20) is **DENIED**. Plaintiff is placed on notice that if any of her pending suits are dismissed for failure to state a claim upon which relief may be granted that such a dismissal would constitute a “third strike” for purposes of 28 U.S.C. § 1915(g), which would severely inhibit her ability to proceed in forma pauperis in the future.¹

S/ Yvette Kane
Yvette Kane, Chief Judge
United States District Court
Middle District of Pennsylvania

¹ Plaintiff may avoid this outcome by moving for voluntary dismissal of any pending claim she fears is in danger of dismissal on the grounds that is frivolous, malicious, or fails to state a claim. See Tolbert v. Stevenson, 635 F.3d 646 (4th Cir. 2011).