

An indigent inmate may overcome the “Three Strikes Rule” if he can show that he is under “imminent danger of serious physical injury.” Abdul-Akbar v. McKelvie, 239 F.3d 307 (3d Cir. 2001) (interpreting imminent danger). Plaintiff has not alleged such imminent danger.

Accordingly, Plaintiff must pay the full filing fee before October 23, 2006, or risk dismissal of this action.

III. CONCLUSION

Because of these prior dismissals, and because Plaintiff has not alleged that he is in imminent danger of serious physical injury, it is recommended that the complaint be dismissed without prejudice to Plaintiff’s right to pay the full filing fee of \$350.00 to the Clerk of Courts before October 23, 2006.

In accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1)(B) and (C), and Local Rule 72.1.4B, the parties are allowed ten (10) days from the date of service to file written objections to this report. Any party opposing the objections shall have seven (7) days from the date of service of objections to respond thereto. Failure to timely file objections may constitute a waiver of any appellate rights.

S/ Susan Paradise Baxter
SUSAN PARADISE BAXTER
Chief United States Magistrate Judge

Dated: October 3, 2006